

CALIFORNIA COASTAL COMMISSION

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**F-9**

May 13, 2005

TO: Coastal Commissioners and Interested Public

FROM: Peter M. Douglas, Executive Director
Sarah Christie, Legislative Coordinator

SUBJECT: LEGISLATIVE REPORT FOR MAY 2005

CONTENTS: This report provides summaries and status of bills that affect the Coastal Commission and California's Coastal Program as well as bills that staff has identified as coastal related legislation.

Note: This information can be accessed through the Commission's World Wide Web Homepage at
www.coastal.ca.gov

Legislative Calendar

May 20	Last day for policy committees to meet prior to June 6
May 27	Last day for fiscal committees to hear and report first house bills to the floor
June 3	Last day for Senate, Assembly to pass first house bills
June 15	Budget bill must be passed by midnight
July 8	Last day for policy committees to meet and report second house bills
July 15	Summer recess begins on adjournment
Aug. 15	Legislature reconvenes
Aug. 26	Last day for fiscal committees to meet and report second house bills
Aug. 29	Floor session only. No committees may meet through September 9.
Sept. 9	Last day to pass any non-urgency bill

Please contact Sarah Christie, Legislative Coordinator, at (916) 445-6067 with any questions on the material contained in this report.

PRIORITY LEGISLATION

AJR 8 (Canciamilla)

This resolution would urge the Congress of the United States to ratify a treaty on the reduction of sulfur levels in marine fuels, and urge the US Environmental Protection Agency to create the North American Sulfur Emission Control Area.

Introduced	02/15/05
Last Amended	04/21/05
Status	Senate Rules Committee

AB 17 (Koretz) Coastal Resources: Litter: receptacles

This bill no longer creates a prohibition on smoking on State beaches. It has been amended to address waste receptacles under the Integrated Waste Management Act.

Introduced	12/06/04
Last Amended	04/17/05
Status	Assembly Appropriations Committee

AB 328 (DeVore) Crystal Cove State Park: El Morro Mobilehome Village

This bill would block funding to the Department of Parks and Recreation that has been allocated for the removal of structures and El Morro Mobile Home Park at Crystal Cove State Park, thereby preventing the transition of that facility from private use to a public campground and accompanying habitat restoration. (*Analysis and Bill attached.*)

Introduced	02/18/05
Last Amended	04/07/05
Status	Assembly Water, Parks and Wildlife Committee, bill pulled at author's request.

Commission Position **Recommend Oppose**

AB 329 (DeVore) Crystal Cove State Park: El Morro Mobilehome Village

This bill would allow the tenants at El Morro Mobile Home Park in Orange County to extend their leases with the Department of Parks and Recreation for an additional 40 years, in return for a 50% increase in lease fees, thereby preventing the transition of that facility from private use to a public campground and accompanying habitat restoration. (*Analysis and Bill attached.*)

Introduced	02/18/05
Last Amended	04/013/05
Status	Assembly Water, Parks and Wildlife Committee, bill pulled at author's request.

Commission Position **Recommend Oppose**

AB 771 (Saldana) Coastal resources, California Coastal Commission

This bill would prohibit the Commission from conducting ex-parte communications with applicants, applicants' agents, or other interested parties, for any matter pending before the California Coastal Commission, including enforcement proceedings and matters pertaining to litigation. A commissioner who knowingly violates these provisions would be subject to a \$7,500 fine.

Introduced	02/18/05
Last Amended	0/03/05
Status	Assembly Appropriations Committee

AB 1165 (Bogh) Energy Resources: environmental documents

This bill would require that any agency with a regulatory program certified pursuant to CEQA, that must make a decision on an energy facility or site, to use the proposed decision of the California Energy Commission, or a committee of the California Energy Commission, that describes the projects analyzes the environmental impacts, and discusses alternatives, prepared by the State Energy Resources Conservation and Development Commissions, in the same manner as it would use an EIR or negative declaration prepared by a lead agency.

Introduced	02/18/05
Last Amended	04/27/05
Status	Assembly Appropriations Committee

AB 1168 (Saldana) Drinking water standards, boron contamination

This bill would require the Office of Environmental Health Hazard Assessment, when reviewing an application for a ground water or ocean water desalination facility, to identify potential contaminants and sources of contamination and ensure the safety and effectiveness of the treatment process.

Introduced	02/22/05
Last Amended	04/05/05
Status	Assembly Appropriations Suspense File

AB 1524 (Laird) Coastal resources: property dedications

This bill would require the State Coastal Conservancy to accept any Offer to Dedicate a conservation or open space easement within 90 days of its expiration date, if no other accepting entity can be found. This bill would also exempt the SCC acceptance process from General Services review.

Introduced	02/22/05
Last Amended	03/31/05
Status	Assembly Appropriations Suspense File

AB 1548 (Pavley) Rodenticides

This bill would have authorized the County of Ventura to ban the sale of over-the-counter rodenticides for domestic use, for the purpose of reducing toxic effects up the food chain, which have been found to be lethal to keystone predators, including mountain lions and coyotes. This bill has been amended to address Board of Education standards for electronic instructional materials.

Introduced	02/18/05
Last Amended	04/28/05
Status	Assembly Appropriations Suspense File

AB 1557 (Karnette) California Coastal Commission

This bill would require the Coastal Commission to notify the Resources Agency within 10 days of receiving evidence of recordation of any Offer to Dedicate real property for public access to or along the coast.

Introduced	02/22/05
Status	Assembly Natural Resources Committee, hearing postponed by committee.

AB 1612 (Pavley)

This bill would impose a new tax on every package of cigarettes sold in California for the purpose of funding grants to public agencies and non-profits to conduct education and outreach efforts to educate the public about the impacts of cigarette butts on the environment. (*Analysis and Bill attached.*)

Introduced	02/15/05
Last Amended	04/20/05
Status	Assembly Appropriations Committee
Commission Position	Recommend Support

SCR 40 (Lowenthal) Liquefied Natural Gas facilities

This measure would memorialize the President and Congress to take necessary action to preserve state and local authority over the siting of liquefied natural gas facilities.

Introduced	04/07/05
Status	Senate Energy, Utilities and Communications Committee

SB 153 (Chesbro) California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2006

This bill would authorize \$3,000,000,000 in General Obligation bonds for the purpose of financing the acquisition, development and preservation of parks, coastal, recreational, cultural and agricultural lands, and other clean air and water projects as specified.

Introduced	02/15/05
Last Amended	04/04/05
Status	Senate Appropriations Committee, Suspense File.

SB 241 (Margett) Coastal resources, development standards

This bill would make a technical, non-substantive change to Section 30250 of the Coastal Act.

Introduced	02/15/05
Status	Failed to meet Legislative deadlines.

SB 306 (Campbell) Property transactions: Sunset Ridge Park

This bill would permit the director of the Department of Parks and Recreation to lease the property known as Sunset Ridge Park to the City of Newport Beach, without monetary remuneration, for a period not to exceed 25 years. This bill would also require the City to comply with applicable storm water waste discharge requirements issued by the Santa Ana Water Quality Control Board or the State Water Resources Control Board.

Introduced	02/16/05
Last Amended	04/27/05
Status	In Assembly.

SB 426 (Simitian) Renewable energy

This bill would require the California Energy Commission to conduct a statewide needs assessment that analyzes the state's projected need for natural gas, including Liquefied Natural Gas, as part of a public process. This bill would also require the Energy Commission, in consultation with the Coastal Commission and other state agencies, to conduct a comparative analysis of the currently proposed sites to assess their relative merits as they relate to public health, environmental constraints and other impacts. (*Analysis and Bill attached.*)

Introduced 02/17/05
Last Amended 04/13/05
Status Senate Appropriations Committee, Suspense File.
Commission Position Recommend Support, if amended

SB 427 (Hollingsworth) CEQA: exemption: Caltrans

This bill would exempt the California Department of Transportation from the California Environmental Quality Act for the construction of any overpass, underpass or off ramp that is built on an existing Caltrans right-of-way.

Introduced 02/17/05
Last Amended 04/25/05
Status Senate Environmental Quality Committee. Hearing cancelled at request of author.

SB 575 (Torlakson) Housing development projects

This bill would revise the conditions under which a local agency may approve, deny, or approve with conditions, a housing project for very low, low, or moderate income households, including farm worker housing. Under existing law, a local agency may deny a housing project, as defined, if its housing element is in substantial compliance with state law, and is meeting its share of regional housing needs. This bill would delete that provision. Existing law specifies that noting in the relevant sections of the statute exempts local governments from complying with the Coastal Act.

Introduced 02/18/05
Last Amended 03/29/05
Status In Assembly

SB 606 (Kehoe) Lifeguards

This bill authorize the State Personnel Board to exempt lifeguards from basic training requirements established by the Commission on Peace Officers Standards and Training.

Introduced 02/15/05
Last amended 04/06/05
Status Senate Appropriations Committee, Suspense File.

SB 658 (Kuehl) State Coastal Conservancy: local grants

This bill would establish the Coastal Environment Motor Vehicle Mitigation Program, which would authorize the State Coastal Conservancy (SCC) to request that the Department of Motor Vehicles collect up to \$6 per vehicle registration fee for vehicles registered in participating jurisdictions. The bill would authorize the SCC to disburse grants to participating jurisdictions for projects that mitigate, reduce, remediate or prevent environmental impacts from motor vehicles and their associated infrastructure.

Introduced 02/22/05
Last Amended 04/21/05
Status Senate Appropriations Committee, Suspense File.

SB 695 (Kehoe) Conservation easement registry

This bill would require the Secretary for Resources to create a central, public registry of conservation easements, updated biannually, for the purpose of monitoring conservation easements.

Introduced 02/23/05
Last Amended 04/28/05
Status Senate Appropriations Committee.

SB 742 (Chesbro) Tidelands: City of Eureka

This bill would eliminate the existing requirement for the City of Eureka to make annual payments to the State Controller from funds deposited into the Humboldt Bay Fund, for state tidelands and submerged lands held in trust by the city.

Introduced 02/15/05
Status In Assembly.

SB 768 (Simitian) Marine finfish aquaculture

This bill would prohibit any person from engaging in finfish aquaculture without a permit from the Fish and Game Commission. It would also require that a final programmatic EIR prepared for a coastal marine finfish aquaculture project and approved by the Fish and Game Commission includes an analysis of specific impacts, and that it ensures that marine finfish aquaculture is managed in a sustainable manner. The bill would set standards for finfish aquaculture leases.

Introduced 02/22/05
Last Amended 05/03/05
Status Senate Appropriations Committee.

SB 771 (Simitian) Ocean going ships

This bill would extend the ban on onboard incineration on cruise ships to all ocean-going vessels. This bill would also extend the regulations pertaining to discharges of sewage, sewage sludge, gray water, oily bilge water, hazardous wastes and other wastes from cruise ships to all ocean-going vessels in marine sanctuaries.

Introduced 02/22/05
Last Amended 03/29/05
Status Senate Appropriations Committee.

SB 857 (Kuehl)

This bill would require California Department of Transportation to conduct a statewide survey to determine the extent and location of impediments to anadromous fish passage in culverts and other stream crossings within the jurisdiction of Caltrans.

Introduced 02/15/05
Last Amended 05/02/05
Status Senate Appropriations Committee

SB 929 (Kehoe) California Coastal Act: administrative actions

This bill would require any lobbyist doing business with the Commission to register as a lobbyist with the Secretary of State, and disclose all payments and all expenditures, in accordance with the Political Reform Act of 1974.

Introduced	02/22/05
Last Amended	04/21/05
Status	Senate Appropriations Committee.

SB 956 (Simitian) Coast and Ocean Stewardship Act

This bill would authorize the Board of Equalization to collect a \$1 per night surcharge on all overnight stays in coastal and Bay Area counties, for the purpose of funding implementation of the Coastal Act, McAteer-Petris Act, Marine Life Management Act and Marine Life Protection Act. (*Analysis and Bill attached.*)

Introduced	02/22/05
Last Amended	04/25/05
Status	Senate Natural Resources Committee, held in committee.

Commission Position Recommend Support

SB 960 (Simitian) Tidelands: exchange: City of Santa Cruz

This bill would make it easier for certain private parties to file “quiet title” actions on disputed tidelands and submerged lands within the City of Santa Cruz.

Introduced	02/22/05
Last Amended	04/21/05
Status	Senate Appropriations Committee.

SB 1003 (Escutia)

This bill would designate the California Energy Commission as the only state agency with permitting authority over Liquefied Natural Gas (LNG) terminals in California. This bill is double-joined with SB 426 (Simitian). (*Analysis and Bill attached.*)

Introduced	02/15/05
Last Amended	04/13/05
Status	Senate Appropriations Committee, Suspense File

Commission Position Recommend Oppose unless amended

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**BILL ANALYSIS; SB 426 (Simitian)**

(Staff recommends the Commission **Support** SB 426 if amended)

SUMMARY

This bill would require the California Energy Commission (CEC) to conduct a statewide study to determine the projected demand and supply for natural gas, including an analysis of natural gas alternatives and to determine the number of LNG facilities needed, if any, to meet that demand. The bill would also require the CEC, in consultation with the Coastal Commission and other state agencies, to rank the sites of proposed LNG facilities based on community, historical and recreation values, and influence on the environment, and require any subsequent permit approvals to be based on this ranking. This bill is double joined to SB 1003 (Escutia)

PURPOSE OF THE BILL

The purpose of this bill is to give the state a role in determining actual needs for LNG facilities, and to provide a planning framework for their potential location.

EXISTING LAW

Existing law authorizes the California Public Utilities Commission (CPUC) to regulate public utilities, including gas corporations. Existing law would require a proposed LNG facility to obtain a number of local and state permits, including but not limited to a coastal development permit. Nothing in existing law requires the preparation of an LNG needs analysis, or gives any agency the ability to base its permit action on a comparative analysis of proposed sites.

LEGISLATIVE HISTORY

The LNG Terminal Act of 1977 required the CPUC to approve a single site along the California coast as suitable for an LNG terminal, and required the Coastal Commission to rank potential sites based on their respective environmental impacts. This resulted in the designation of Point Conception as the state's preferred site for an LNG terminal. However, that site was never developed when market changes made its construction uneconomical. In 1987, that provision was repealed.

This bill is double joined with SB 1003 (Escutia) which would designate the California Energy Commission (CEC) as the sole agency responsible for the permitting of any Liquefied Natural Gas (LNG) facilities in California; require the State Lands Commission to issue a lease for any LNG facility permitted by the CEC; require the CEC to adopt regulations governing safety and construction of LNG terminals, and authorizes the CEC to disregard site ranking recommendations made pursuant to SB 426 if certain findings are made.

ANALYSIS

Currently, four different multinational corporations are proposing to build LNG facilities in California. These include:

Mitsubishi (Long Beach Harbor)
BHP Billiton (Offshore Port Hueneme)
Crystal Energy (Platform Grace, Offshore Oxnard)
Chevron Texaco (Offshore Camp Pendleton)

Each proposal differs significantly in terms of its chosen technology and associated impacts. Because the state lacks a comprehensive regulatory and/or planning framework specific to LNG facilities, these proposals are entirely market driven, and subject to the jurisdiction of a variety of local, state and federal agencies.

Jurisdictional disagreements aside, the Coastal Commission is the only state agency with regulatory authority over all four facilities. However, the Commission's standard of review is the Coastal Act. Analysis under the Coastal Act would not take into account how many LNG terminals the state actually needs to meet projected

natural gas demands, nor whether the state actually needs an LNG facility at all. Nor would it allow the Commission to approve a proposal based on a comparative analysis with other proposals, to determine which one best met the Chapter 3 policies of the Coastal Act.

Lacking a comprehensive planning framework for LNG facilities, or a statewide assessment to determine the extent of actual need and analyze potential alternatives, the process will be entirely market-driven. Companies will be competing with one another to be the first to get a facility through the regulatory process, as opposed to responding to California's determination of where it makes the most sense to proceed with constructing a facility, preferred technology and appropriate mitigation measures.

This is analogous to the push to approve ocean-bottom fiberoptic cables in 2000-2001. Competitive market forces resulted in a rush for permits which were approved by the Commission in an atmosphere economic urgency, created largely by the applicants. The end result was a glut of fiberoptic cables with excessive bandwidth that is currently going unused. Many permit conditions, such as monitoring and other mitigations, are not being carried out, as the less successful companies have since gone bankrupt. Clearly, allowing unfettered market forces to dictate the state's response to public service needs is no substitute for comprehensive planning.

This bill would direct the California Energy Commission to conduct a Needs Assessment Survey by November 1, 2006, to determine the number of LNG facilities, if any, that may be needed to meet the state's projected demand. It also requires the CEC to evaluate and rank proposed terminal sites according to environmental, safety and economic criteria, and base subsequent approvals on this ranking. The Coastal Commission is one of several agencies that would be consulted during this process.

Given the recent actions by the CEC regarding recommendations made by the Commission relative to power plant upgrades at El Segundo and Morro Bay, limiting the Commission's role to consultation may not be adequate assurance that Coastal Act issues are properly considered during the site analysis and subsequent ranking. The Commission should pursue an amendment that would elevate the Commission's role, and guarantee that recommendations made to protect coastal resources are included.

The author's office concedes that this bill should have been introduced five years ago, before the state began accepting applications for LNG facilities. If enacted, this bill would not take effect until January 1, 2006. It is possible that the first LNG facility may receive some, if not all, regulatory approvals in advance of that date. However, the regulatory horizon remains uncertain, and in any case, a statewide needs assessment and site-ranking analysis would still be informative for considering subsequent applications.

However, it should be noted that this bill is double joined with SB 1003 (Escutia) which allows the CEC exclusive permit jurisdiction over LNG facilities, and also allows the CEC to issue a permit for a lower-ranked project if it deems it necessary to meet the state's LNG needs. This essentially undermines the purpose of the ranking, as it allows the CEC to permit a more environmentally damaging facility, or a facility with a higher public health risk, if it can deliver LNG to the market sooner than a preferable site.

The question has been raised relative to what would happen if another LNG proposal came forward after the ranking was complete. While the answer to this remains ambiguous, staff is fairly confident, based on existing knowledge of the industry and project proposals, that this would be unlikely.

SUPPORT/OPPOSITION

Support:

None on file

Opposition:

None on file

RECOMMENDED POSITION

A statewide LNG needs assessment study is needed to provide agencies and decision makers with critical information regarding the state's projected needs for LNG, and a consideration of possible alternatives. If strengthened to assure that Coastal Act issues will be adequately considered during the site analysis/ranking phase, this bill would provide for a rational planning process for LNG facilities, and a sound framework for subsequent decisions. Staff recommends the Commission **Support SB 426 if amended.**

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**BILL ANALYSIS; SB 956 (Simitian)**

(Staff recommends the Commission **Support** SB 956)

SUMMARY

This bill would amend the Public Resources Code to enact the Coast and Ocean Stewardship Act of 2005. The bill would authorize the Department of Equalization to collect a surcharge of \$1 per room per overnight stay in every hotel, motel and B&B in each coastal and Bay Area county for purposes specified in the bill. Funds would be deposited in the Coast and Ocean Stewardship Trust (COAST) fund, to be administered by the Resources Agency. Funds would be disbursed in specified percentages for the following purposes: implementation of the Coastal Act, the Marine Life Protection Act, the Marine Life Management Act, the McAteer-Petris Act, the Suisun Marsh Preservation Act, grants to local governments for the purpose of creating and/or updating Local Coastal Program, and the California Travel and Tourism Commission for promotion of coastal tourism.

PURPOSE OF THE BILL

The purpose of this bill is to create a permanent, independent source of funding for coastal and marine protection in an amount adequate to fully implement the statutory obligations of the above agencies, and associated coastal planning and promotion activities.

EXISTING LAW

The California Coastal Commission (CCC) implements the California Coastal Act, the Bay Conservation and Development Commission (BCDC) implements the McAteer-Petris Act, the Department of Fish (DFG) and Game implements the Marine Life Protection Act (MLPA) and the Marine Life Management Act (MLMA). All three agencies' budgets are subject to annual appropriation by the Legislature primarily from the General Fund. None are currently staffed at a level that allows full implementation of statutory obligations, according to review by the Legislative Analyst. Existing law prohibits bond fund expenditures for operation and management activities of regulatory agencies; authorizes local governments to collect Transient Occupancy Tax (TOT) on overnight stays within their jurisdictions for general expenditures.

LEGISLATIVE HISTORY

None.

ANALYSIS

Perhaps the greatest threat facing California's Coastal Management Program is the chronic lack of adequate, secure funding for coastal resource protection agencies to carry out their statutory responsibilities. Neither the Coastal Act, McAteer-Petris Act the MSMA nor the MLPA have ever been fully funded, despite demonstrated need and extensive public support. The agencies that implement the policies contained in these statutes—the Coastal Commission, BCDC and the DFG, have the collective responsibility to protect what is perhaps the state's most valuable asset—its coast and ocean.

Agency budgets that are largely dependent on General Fund appropriations are subject to annual economic fluctuations. For instance, the Legislative Analyst Office identified a critical shortfall in the Coastal Commission's planning and permitting functions in 2001, and recommended an additional 8 positions to make up the gap. These positions were never approved, and the Commission has lost an additional 33 positions since that time due to budget cuts, further exacerbating the problem. Recent court cases have held that the Commission cannot now undertake enforcement proceedings against violations of Coastal Development Permit conditions, because the violations have gone unaddressed for so many years due to lack of enforcement personnel. In 2004, the Resources Agency announced that it was shelving efforts to create a series of Marine Reserves, as required by the MLPA, due to a lack of funding. Private donations have temporarily revived a scaled down version of the program, but only in the short term.

SB 956 would create a new revenue stream for coast and ocean protection by imposing \$1 per room per night tax on overnight stays in the Coastal Zone. The majority of these funds would be used to support the regulatory and planning activities of the Commission, BCDC and DFG, as an augmentation to baseline general fund support.

In addition, a portion of the funds would be dedicated to promoting coastal tourism in California, which in turn would generate even more economic benefit to the state. A smaller percentage would restore grants to local governments to complete or update their local coastal plans, a vital local assistance program that was eliminated in 2003. The need to complete and update aging LCPs has repeatedly been identified by the LAO as a critical, unmet priority for protecting coastal resources. Yet the Commission and local governments lack the funds to do so. This bill would alleviate that shortfall, and make it possible to resume important long-range planning activities and restore the state/local partnership at the heart of the Coastal Act.

State-collected transient occupancy tax in the Coastal Zone is an appropriate way to finance long-term coast and ocean protection. This does not take away from the funds currently collected by local governments, it merely authorizes the State to collect an additional charge.

SB 956 will finally allow the full implementation of the state's coast and ocean management programs—programs that have met with the approval of the Legislature, the Governor and the public, but have never been fully carried out because of chronic under funding.

OTHER STATES

While it does not appear that other states have a precisely analogous statutory program, the concept of using bed tax and other locally generated fees for statewide purposes, including beach nourishment and other coastal management activities is in place in several states. For instance, Delaware imposes a 2% bed tax to fund statewide beach nourishment. Florida raises approximately \$30 million per year for beach erosion control, generated by document taxes. New Jersey funds several statewide entities, including the Arts Council, Historic Commission, and the Cultural Trust, with funds collected from a statewide hotel tax. New Jersey also imposes a real estate transfer tax to fund shoreline protection.

SUPPORT/OPPOSITION

Support:

Sierra Club, Natural Resources Defense Council, Vote the Coast. Save the Bay, Blue Water Network, Environment California, California League of Conservation Voters, California Coastkeeper Alliance, Orange County Coastkeeper, The Ocean Conservancy, Planning and Conservation League, Malibu Land Conservancy, Pro Peninsula, Saviers Road Design Team.

Opposition:

California Chamber of Commerce
California Hotel and Lodging Association
California Lodging Industry Association

RECOMMENDED POSITION

Staff recommends the Commission **Support** SB 956.

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**BILL ANALYSIS; SB 1003 (Escutia)**

(Staff recommends the Commission **Oppose** SB 1003 unless amended)

SUMMARY

This bill would designate the California Energy Commission (CEC) as the sole agency responsible for the permitting of any Liquefied Natural Gas (LNG) facilities in California; require the State Lands Commission to issue a lease for any LNG facility permitted by the CEC; require the CEC to adopt regulations governing safety and construction of LNG terminals, and authorizes the CEC to disregard site ranking recommendations made pursuant to SB 426 (Simitian) if certain findings are made. This bill is double joined to SB 426 (Simitian)

PURPOSE OF THE BILL

The purpose of this bill is to create an expedited permitting process for LNG terminals.

EXISTING LAW

Existing law would require a proposed LNG facility to obtain a number of local and state permits, including but not limited to a coastal development permit.

LEGISLATIVE HISTORY

The LNG Terminal Act of 1977 required CPUC to approve a single site along the California coast as suitable for an LNG terminal, and required the Coastal Commission to rank potential sites based on their respective environmental impacts. This resulted in the designation of Point Conception as the state's preferred site for an LNG terminal. However, that site was never developed when market changes made its construction uneconomical. In 1987, that provision was repealed.

This bill is double joined with SB 426 (Simitian) which would require the CEC to conduct a statewide LNG needs assessment study in cooperation with applicable state agencies, and rank all proposed LNG facility site locations according to their environmental, social and economic impacts.

ANALYSIS

According to committee analysis, approximately 85% of California's total natural gas supply is imported. None of this supply is in the form of LNG, because the state of California does not currently have any LNG re-gasification facility. Because LNG is shipped via ocean-going vessels at super cooled temperatures (minus 259 degrees Fahrenheit), any re-gasification facilities would necessarily have to be built offshore or immediately on shore, and thus within the jurisdiction of the Coastal Commission.

Currently, four different multinational corporations are proposing to build LNG facilities in California. These include:

Mitsubishi (Long Beach Harbor)
BHP Billiton (Offshore Port Hueneme)
Crystal Energy (Platform Grace, Offshore Oxnard)
Chevron Texaco (Offshore Camp Pendleton)

Each proposal differs significantly in terms of its chosen technology and associated impacts. Because the state lacks a comprehensive regulatory and/or planning framework specific to LNG facilities, these proposals are entirely market driven, and subject to the jurisdiction of a variety of local, state and federal agencies. The Coastal Commission is the only state agency with jurisdiction over all four proposed locations.

There are current jurisdictional disputes over the permitting of LNG facilities. The California Public Utilities Commission (CPUC) has asserted jurisdiction over the Long Beach proposal, based on the finding that the terminal owner is a public utility. The Federal Energy Regulatory Commission (FERC) maintains that it has exclusive permitting authority under the federal Natural Gas Act. The CPUC/FERC dispute is currently pending in the 9th Circuit Court of Appeals. Meanwhile, the House approved version of the federal Energy Bill includes language that

would give the FERC sole jurisdiction over siting and permitting of all proposed LNG facilities, pre-empting states entirely. The Senate is now considering its own version of the bill.

This bill would designate the California Energy Commission as the sole permitting entity for proposed LNG facilities. The Coastal Commission would not even retain a consulting role in the process. Under this framework, it is unlikely that Coastal Act or certified LCP policies would be considered in the permitting process or ultimately reflected in an approved permit issued by the CEC. An additional concern is that water quality and air quality standards, under the jurisdiction of the State Water Resources Control Board, Regional Water Quality Control Boards and local Air Pollution Control Districts would also be pre-empted. (Exemption from NPDES and APCD permit requirements also raises questions about the State's ability to exempt LNG projects from state permits that are required as part of federal regulatory mandates.) This creates the potential for unacceptable impacts to coastal resources, public access, recreational activities and coastal air and water quality.

The bill also undermines the intent of SB 426, to which it is double-joined, by allowing the CEC to deviate from the list of sites that are ranked according to preference from an environmental perspective. The bill allows the CEC to approve a facility at a lower-ranked site if the CEC determines it is not feasible to complete construction and commence operations at a higher ranked site in time to prevent significant curtailment of high priority requirements for natural gas. This essentially allows the CEC to disregard the environmentally preferred site in favor of the first proposal with a completed application, making the entire concept of a site ranking study obsolete.

SUPPORT/OPPOSITION

Support:

None on file

Opposition:

None on file

RECOMMENDED POSITION

As currently drafted, the bill strips the Commission of all regulatory authority over LNG facilities and has the potential to completely undermine the environmental analysis and planning efforts contained in its companion bill.

Staff recommends the Commission **Oppose SB 1003. Unless Amended.**

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BILL ANALYSIS; AB 328 (DeVore)
(Staff recommends the Commission **Oppose** AB 328)

SUMMARY

This bill would allow the current tenants of El Morro Village Mobilehome Park at Crystal Cove State Beach Park in Orange County to extend the term of their leases for 30 years, in return for a bond guaranteeing the payment of \$50 million to the state. This bill would prohibit the Department of Parks and Recreation from proceeding with plans to demolish the mobilehome park, construct public camping facilities and associated amenities, and open the park for public use. This bill would allow for recreational vehicle and day use parking within the park, and provide that fees generated from day use be deposited in the General Fund.

PURPOSE OF THE BILL

The purpose of this bill is allow the tenants of El Morro Village Mobilehome Park to continue to occupy private residences on land that was purchased by state as a State park over 25 years ago.

EXISTING LAW

The current tenants' leases expired on December 1, 2004. The Budget Act of 2000-01 appropriated \$2 million from Proposition 12 to pay for studies and preliminary plans for conversion of the park to public use. In 2002, the draft EIR was completed and the City of Laguna Beach voted to support the plan, followed by the City of Newport Beach in 2003. The Coastal Commission approved permit in 2004, and \$10 million in funding for conversion of the park to public purposes was provided from bond monies appropriated in the 2003-04 Budget Act. The funding is also included in the Governor's proposed budget for 2005-06.

LEGISLATIVE HISTORY

Senator John Campbell introduced legislation as an Assembly member on this issue in the prior legislative session.

ANALYSIS

This property was purchased by the state from the Irvine Company in 1979 for \$32.5 million dollars to provide affordable overnight accommodations and coastal access. The park consists of 2,791 acres and 3.25 miles of pristine coastline located between the cities of Newport Beach and Laguna Beach in Orange county. The park was purchased with two existing leaseholds, including 294 mobile homes leased to private individuals at El Morro. The tenants' leases, which were month-to-month with the Irvine Company, were converted to 20-year leases with State Parks in lieu of "relocation benefits". Leaseholders were notified that the leases would be terminated after 20 years, and the area occupied by the private trailers converted to public use. According to committee analysis, the average monthly lease is \$426.

In 1998, the leases were extended by the Department of Parks and Recreation (DPR) for an additional five years. The leases expired on December 31, 2004.

On October 13, 2004, the Commission issued Coastal Development Permit (CDP) 5-04-060 and 5-04-297. CDP 5-04-060 allowed demolition and removal of existing mobile homes, office building, maintenance building, ancillary improvements, paved roadways and existing shoreline protective device at the El Morro Mobile Home Park. CDP 5-04-060 allowed conversion of the site to a public park with day use and overnight camping facilities, including construction of campgrounds, public amenities, parking lots, creek restoration, water quality improvements, utility upgrades, abandonment of an existing septic system, trail improvements including bridges, construction of a lifeguard station, and off-site road improvements.

Tenants have had ample time to transition out of their existing situations, and have received more than adequate beneficial use of the property. Bill opponents state that 70% of the mobilehomes are not occupied as primary

residences, many are held by out of state owners, and sublet for as much as \$2,000 per week during the summer months.

At this time, the appropriate course of action is to allow the Department of Parks and Recreation to proceed with approved demolition and site restoration activities, funded with Park Bond money that has already been allocated for this purpose, in order to fulfill the original purpose for the acquisition. Opening the park for public use will satisfy the mandate of DPR, the specific recommendations of the Crystal Cove State Park Master Plan, and the conditions set forth in the Coastal Commissions permits for the project.

SUPPORT/OPPOSITION

Support:

Over 300 individual letters primarily from park residents.

Opposition:

Joan Irvine Smith
Boosters of Old Town San Diego State Historic Park
California Coastal Protection Network
California League of Conservation Voters
California State Parks Foundation
California State Park Ranger's Association
Coastwalk
Crystal Cove Alliance
Endangered Habitats League
Friends of Harbors, Beaches and Parks
Friends of Newport Coast
Heart and Soul Coalition
Laguna Canyon Conservancy
Laguna Canyon Foundation
Laguna Greenbelt, Inc.
League for Coastal Protection
Orange County Coastkeeper
Peninsula Open Space Trust
Planning and Conservation League
Sierra Club, Angeles Chapter
Stop Polluting Our Newport (SPON)
Surfrider Foundation, Laguna Beach and Newport Beach Chapters
Village Laguna
Vote the Coast
Over 800 letters from individual citizens.

RECOMMENDED POSITION

Staff recommends the Commission **Oppose** AB 328.

LEGISLATIVE STAFF CONTACT

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BILL ANALYSIS; AB 329 (DeVore)
(Staff recommends the Commission **Oppose** AB 329)

SUMMARY

This bill would prohibit the Department of Parks and Recreation (DPR) from expending bond funds appropriated in the Budget Act of 2004 for the purpose of converting facilities at Crystal Cove State Park from private to public use. This bill would require the DPR to extend the leases for a period of 10-30 years, and auction them off to the highest bidder. Funds would be deposited into a Deferred Maintenance Account, which the bill would create, for expenditure by DPR for deferred maintenance activities at state park facilities.

PURPOSE OF THE BILL

The purpose of this bill is allow the tenants of El Morro Village Mobilehome Park to continue to occupy private residences on land that was purchased by state as a State park over 25 years ago, and to create a new revenue source for carrying our deferred maintenance activities at state parks.

EXISTING LAW

The current tenants' leases expired on December 1, 2004. The Budget Act of 2000-01 appropriated \$2 million from Proposition 12 to pay for studies and preliminary plans for conversion of the park to public use. In 2002, the draft EIR was completed and the City of Laguna Beach voted to support the plan, followed by the City of Newport Beach in 2003. The Coastal Commission approved permit in 2004, and \$10 million in funding for conversion of the park to public purposes was provided from bond monies appropriated in the 2003-04 Budget Act. The funding is also included in the Governor's proposed budget for 2005-06.

LEGISLATIVE HISTORY

Senator John Campbell introduced legislation as an Assembly member on this issue in the prior legislative session.

ANALYSIS

This property was purchased by the state from the Irvine Company in 1979 for \$32.5 million dollars to provide affordable overnight accommodations and coastal access. The park consists of 2,791 acres and 3.25 miles of pristine coastline located between the cities of Newport Beach and Laguna Beach in Orange County. The park was purchased with two existing leaseholds, including 294 mobile homes leased to private individuals at El Morro. The tenants' leases, which were month-to-month with the Irvine Company, were converted to 20-year leases with State Parks in lieu of "relocation benefits". Leaseholders were notified that the leases would be terminated after 20 years, and the area occupied by the private trailers converted to public use. According to committee analysis, the average monthly lease is \$426.

In 1998, the Department of Parks and Recreation (DPR) extended the leases for an additional five years. The leases expired on December 31, 2004.

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Tenants have had ample time to transition out of their existing situations, and have received more than adequate beneficial use of the property. Bill opponents state that 70% of the mobile homes are not occupied as primary

residences, many are held by out of state owners, and sublet for as much as \$2,000 per week during the summer months.

According the findings in the bill, DPR has \$10,800,000 in estimated deferred maintenance costs. This bill would generate an unspecified amount of revenue for the purpose of covering those costs. However, postponing the improvements at Crystal Cove State Park for another 10-30 years would mean that an existing deficit of affordable overnight accommodations in this heavily visited area will be allowed to persist for an unacceptable period of time. Demand for low cost overnight camping in this area is already high, and can be expected to increase with time. This is the only coastal area in the vicinity where disabled visitors and families with small children can easily access the beach. Continued exclusive private use of this area by residents unfairly denies access to this underserved population. In addition, improvements to the area in the form of trails, restrooms, habitat restoration and restored views would be of great value to the people of the state and visitors.

While addressing deferred maintenance concerns at DPR is a critical priority, it should not come at the expense of the planned, approved and funded improvements at Crystal Cove.

At this time, the appropriate course of action is to allow the Department of Parks and Recreation to proceed with approved demolition and site restoration activities, funded with Park Bond money that has already been allocated for this purpose, in order to fulfill the original purpose for the acquisition. Opening the park for public use will satisfy the mandate of DPR, the specific recommendations of the Crystal Cove State Park Master Plan, and the conditions set forth in the Coastal Commissions permits for the project.

SUPPORT/OPPOSITION

Support:

Over 300 individual letters primarily from park residents.

Opposition:

Joan Irvine Smith
Boosters of Old Town San Diego State Historic Park
California Coastal Protection Network
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Heart and Soul Coalition
Laguna Canyon Conservancy
Laguna Canyon Foundation
Laguna Greenbelt, Inc.
League for Coastal Protection
Orange County Coastkeeper
Peninsula Open Space Trust
Planning and Conservation League
Sierra Club, Angeles Chapter
Stop Polluting Our Newport (SPON)
Surfrider Foundation, Laguna Beach and Newport Beach Chapters
Village Laguna
Vote the Coast
Over 800 letters from individual citizens.

RECOMMENDED POSITION

Staff recommends the Commission **Oppose** AB 329.

LEGISLATIVE STAFF CONTACT

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**BILL ANALYSIS; AB 1612 (Pavley)**

(Staff recommends the Commission **Support** AB 1612)

SUMMARY

This bill would enact the Cigarette Pollution and Litter Prevention Act of 2005 and would require cigarette manufacturers to pay a fee of 10 cents to the State Board of Equalization for each package of cigarettes sold in the state.

Revenues would be used to offset public agency costs associated with the cleanup of cigarette-related pollution and litter, to develop and implement public education and outreach programs, and to assist individuals to access and utilize smoking cessation services.

PURPOSE OF THE BILL

The purpose of this bill is to impose a new fee on the wholesale distribution of cigarettes, for the purpose of funding litter awareness programs, clean up efforts public education efforts that highlight the impacts of cigarette butts in the environment.

EXISTING LAW

Existing law, the Cigarette and Tobacco Products Tax Law, imposes a tax on every retail distributor of cigarettes and tobacco products, including additional taxes imposed under the California Families and Children Act of 1998 (Proposition 10), and the Tobacco Tax and Health Protection Act of 1988.

LEGISLATIVE HISTORY

None.

ANALYSIS

Reports by Caltrans, Keep America Beautiful, and the Coastal Commission's own data collected annually through Coastal Clean Up Day indicates that cigarette butts are by far the most prevalent item of beach litter, accounting for as much as 20% of all materials collected.

The Commission currently funds its Coastal Clean Up Day activities through Whale Tail license plate fees (California Coast and Beach Enhancement Account) and private donations. This bill would provide another funding source to offset costs, which could potentially allow for a greater percentage of CCBEA funds to be expended on the Commission's oversubscribed public education grant program, as the Commission would be eligible to apply for funding.

In addition to being an eyesore and a nuisance, cigarette butts in the marine environment pose a risk to human and environmental health. Filters are made of cellulose acetate, a plastic that is slow to biodegrade. The Commission is well versed in the harmful effects of plastics in the marine environment, but cigarette butts have additional health risks. Because cigarette filters are designed to trap and retain the most toxic elements of tobacco, discarded butts represent the most highly concentrated source of toxins in the smoking ritual. Floating in the marine environment, they continue to trap and retain environmental pollutants, rendering them floating tidbits of chemical poisons. When ingested by birds, fish, turtles and marine mammals, they not only displace appropriate nutritional foods, they can cause illness or death.

The bill's sponsor, The American Lung Association, reports that cigarette usage in California has declined 60% in the last 15 years, due to of combination of price increases, advertising regulations and aggressive public education programs. An ancillary goal of the bill is to further reduce smoking. While it is not clear that this goal will be met, (the Assembly Revenue and Tax committee raised concerns over tax evasion on the part of manufacturers) the bill will provide funding for additional public education, outreach and smoking cessation

activities. However, even if additional costs do not provide a disincentive, increased public awareness may well discourage smoking and/or encourage responsible disposal of cigarette butts.

The “polluter pays” principle has been successfully implemented in other manufacturing sectors. Fees collected from the manufacturers of tires, soft drinks, motor oil and specified electronic devices are used to fund the appropriate disposal/recycling of those products.

SUPPORT/OPPOSITION

Support:

American Heart Association
American Lung Association of California
Californians Against Waste
City of Calabasas
League of California Cities
Natural Resources Defense Council
Sierra Club California

Opposition:

California Alliance for Consumer Protection
California Chamber of Commerce
California Manufacturers and Technology Association
Howard Jarvis Taxpayers Association
Lorillard Tobacco Company

RECOMMENDED POSITION

Staff recommends the Commission **Support AB 1612.**

LEGISLATIVE STAFF CONTACT

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AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 426

Introduced by Senator Simitian

February 17, 2005

An act to ~~amend Section 26011.6 of the Public Resources~~ *add Article 2 (commencing with Section 25571) to Chapter 6.5 of Division 15 of the Public Resources Code, and to amend Sections 1002 and 1003 of the Public Utilities Code, relating to energy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 426, as amended, Simitian. ~~California Alternative Energy and Advanced Transportation Financing Authority; renewable energy program.~~ *State Energy Resources Conservation and Development Commission; liquified natural gas plants.*

The existing Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission) and requires the Energy Commission to prepare a biennial integrated energy policy report. The act requires the Energy Commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. The act grants the Energy Commission the exclusive authority to certify any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto.

Existing law authorizes the Public Utilities Commission (CPUC) to regulate public utilities, including electrical corporations and gas corporations. The existing Public Utilities Act prohibits any electrical corporation or gas corporation from beginning the construction of,

among other things, a line, plant, or system, or of any extension thereof, without having first obtained from the CPUC a certificate that the present or future public convenience and necessity require or will require that construction (certificate of public convenience and necessity). The act requires that the CPUC consider certain factors in determining whether to issue a certificate of convenience and necessity, but requires that the issuance of a certificate by the Energy Commission for an electrical generating facility and facilities appurtenant thereto, is conclusive as to all matters determined thereby when the CPUC is determining whether to issue a certificate of public convenience and necessity.

This bill would require the Energy Commission to make a liquefied natural gas (LNG) needs assessment study that assesses demand and supply for natural gas and alternatives to natural gas to meet energy demands, and to determine the number of LNG terminals, if any, needed to meet the state's projected natural gas demand. The bill would require the LNG needs assessment study to be completed no later than November 1, 2006, and incorporated into its biennial integrated energy policy report. The bill would require the Energy Commission to hold public hearings to consider the results of the LNG needs assessment study and to provide an opportunity for public comment. All costs of the LNG needs assessment study would be funded from fees charged to persons or entities applying for permits to build and operate a LNG terminal according to mechanisms that would be added by SB 1003 of the 2005–06 Regular Session. The bill would require the Energy Commission to compare and rank every site for which an application for a permit to build and operate a LNG terminal has been filed, based upon certain criteria and in consultation with specified entities, and would require the Energy Commission to issue permits only according to the rank order or priority, and as necessary. The bill would authorize the Energy Commission to issue a permit to build and operate a LNG terminal only if it determines that the technology chosen for a particular site will have the least adverse public health, safety, and environmental impacts then feasible.

This bill would require that with respect to any LNG terminal that requires a certificate of public convenience and necessity from the CPUC, that no certificate be issued unless the LNG terminal has first obtained a permit from the Energy Commission, and that the issuance of a permit by the Energy Commission is conclusive as to all matters

determined thereby when the CPUC is determining whether to issue a certificate of public convenience and necessity. The bill would make other conforming changes.

The bill would provide that it shall only become operative if SB 1003 of the 2005–06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

~~Existing law requires the California Alternative Energy and Advanced Transportation Financing Authority to establish a renewable energy program, and requires that emergency regulations adopted by the authority for the program be repealed 180 days after their effective date unless specified conditions are met.~~

~~This bill would instead require that the emergency regulations be repealed 190 days after their effective date unless those specified conditions are met.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 26011.6 of the Public Resources Code~~
- 2 ~~is amended to read:~~
- 3 ~~SECTION 1. The Legislature finds and declares all of the~~
- 4 ~~following:~~
- 5 ~~(a) It is the policy of the state to meet California’s energy~~
- 6 ~~growth by optimizing energy conservation and resource~~
- 7 ~~efficiency and by reducing per capita demand to ensure a clean,~~
- 8 ~~safe, and reliable supply of energy for California.~~
- 9 ~~(b) It is the policy of the state to be sensitive to the impact of~~
- 10 ~~the state’s energy policy on global climate change and~~
- 11 ~~environmental impacts in host countries that export natural gas.~~
- 12 ~~(c) It is the policy of the state to accelerate the use of~~
- 13 ~~renewable energy resources wherever feasible and to ensure a~~
- 14 ~~diverse and affordable portfolio of fuel sources to minimize the~~
- 15 ~~opportunity for supply interruptions.~~
- 16 ~~(d) The state has a lead role in decisions regarding the siting~~
- 17 ~~and design of new onshore and offshore infrastructure for the~~
- 18 ~~importation of liquefied natural gas that results in impacts to~~
- 19 ~~public health, safety, and the environment.~~
- 20 ~~(e) Laws and regulations enacted by the state to address~~
- 21 ~~consumer, public health, safety, and environmental impacts of~~

1 *new onshore and offshore imported liquefied natural gas*
2 *infrastructure, where more protective, should not be preempted*
3 *by weaker, less protective federal laws and regulations.*

4 *(f) Decisions regarding the importation of liquefied natural*
5 *gas should be based on a comprehensive review of current and*
6 *projected natural gas supply and demand in California, and*
7 *alternative sources of supply.*

8 *(g) Construction and operation of liquefied natural gas*
9 *onshore and offshore infrastructure may commence after*
10 *completion of a rigorous evaluation that analyzes the need for*
11 *liquefied natural gas and the relative merits of pending and*
12 *future proposals with respect to business, consumer, public*
13 *health, safety, and environmental impacts.*

14 *SEC. 2. Article 2 (commencing with Section 25571) is added*
15 *to Chapter 6.5 of Division 15 of the Public Resources Code, to*
16 *read:*

17
18 *Article 2. Evaluation of Potential Liquefied Natural Gas*
19 *Terminals and Alternatives*
20

21 *25571. (a) The commission shall not issue a permit to*
22 *construct and operate a liquefied natural gas terminal, except in*
23 *accordance with this article.*

24 *(b) The commission shall issue a permit, or more than one*
25 *permit, to construct and operate a liquefied natural gas terminal,*
26 *only according to the rank order priority established in this*
27 *article and as necessary to further the purposes of this chapter.*

28 *25571.2. (a) The commission shall make a study of the need*
29 *for liquefied natural gas terminals to meet the state's energy*
30 *demands, to be known as the LNG Needs Assessment Study. The*
31 *study shall assess all of the following:*

32 *(1) The future demand for natural gas in California.*

33 *(2) The future supply of natural gas in California available*
34 *from domestic production and imported into California through*
35 *interstate pipelines, supply available from domestic production*
36 *within California, and supply available from foreign production*
37 *and imported into California through international pipelines*
38 *from Mexico and Canada, including any liquefied natural gas*
39 *terminal proposed to be built outside the state that would be the*
40 *source for natural gas imported into the state.*

1 (3) *All supplemental sources of natural gas and natural gas*
2 *alternatives that can reasonably be expected to be available to*
3 *meet the projected demand for natural gas, including, but not*
4 *limited to, conservation and energy efficiency programs, steps to*
5 *increase production and importation of natural gas from other*
6 *states, Mexico, and Canada, steps to increase available supply*
7 *from federally owned or federally regulated supplies, and steps*
8 *to increase energy supplies available from renewable energy*
9 *resources, including solar, wind, geothermal, and biomass.*

10 (b) *The LNG Needs Assessment Study shall determine the*
11 *number of liquefied natural gas terminals, if any, needed to meet*
12 *the state's projected natural gas demand and whether it is*
13 *economically feasible to meet the state's future natural gas needs*
14 *without building a liquefied natural gas terminal.*

15 (c) *The LNG Needs Assessment Study shall be commenced by*
16 *January 1, 2006, shall be completed no later than November 1,*
17 *2006, and shall be incorporated into the integrated energy policy*
18 *report prepared pursuant to Section 25302.*

19 (d) *The commission shall hold at least two public hearings to*
20 *consider the results of the LNG Needs Assessment Study and to*
21 *provide an opportunity for public comment. At least one public*
22 *hearing shall be held in any county that is the proposed site for*
23 *which an application for a permit has been filed with the*
24 *commission, to build and operate a liquefied natural gas*
25 *terminal.*

26 (e) *All costs incurred by the commission to conduct the LNG*
27 *Needs Assessment Study, including costs for any temporary*
28 *personnel or consultants, shall be funded by fees charged to*
29 *persons or entities applying for permits to build and operate a*
30 *liquefied natural gas terminal.*

31 25571.4. (a) *The commission shall compare and rank every*
32 *site for which an application for a permit has been filed with the*
33 *commission to build and operate a liquefied natural gas*
34 *terminal. The comparison and ranking shall be based on the*
35 *following criteria:*

36 (1) *The extent to which the facility is necessary to meet the*
37 *future energy needs of California.*

38 (2) *The extent to which environmentally less damaging*
39 *alternatives are feasible to meet California's future energy*
40 *needs.*

1 (3) *The extent to which a no-build alternative is or is not*
2 *economically feasible for California's economy.*

3 (4) *All effects on the environment, public health, safety, and*
4 *welfare, including any disproportionate negative effects upon*
5 *low income or disadvantaged communities.*

6 (5) *The economic merits of the respective proposals,*
7 *including, but not limited to, the reliability and sustainability of*
8 *the proposed supply.*

9 (b) *In conducting the comparison and ranking, the commission*
10 *shall consult with all entities of local government that would be*
11 *affected by a proposed liquefied natural gas terminal, the*
12 *California Coastal Commission, the State Lands Commission, the*
13 *Public Utilities Commission, the Office of Emergency Services,*
14 *the Department of Fish and Game, the State Water Resources*
15 *Control Board, the affected California regional water quality*
16 *control board, the State Air Resources Board, the Federal*
17 *Energy Regulatory Commission, and the United States Coast*
18 *Guard.*

19 25571.6. *The commission may issue a permit to build and*
20 *operate a liquefied natural gas terminal only if it determines,*
21 *based on the record, that among the available technologies for*
22 *producing natural gas through a liquefied natural gas process,*
23 *that the technology chosen for a particular site will have the least*
24 *adverse public health, safety, and environmental impacts then*
25 *feasible.*

26 25571.8. (a) *The commission shall be the lead agency for*
27 *issuing any approval necessary for the construction or operation*
28 *of a liquefied natural gas terminal in California.*

29 (b) *This article does not limit any existing authority of state*
30 *government pursuant to Division 13 (commencing with Section*
31 *21000).*

32 SEC. 3. *Section 1002 of the Public Utilities Code is amended*
33 *to read:*

34 1002. (a) *The commission, as a basis for granting any*
35 *certificate pursuant to Section 1001 shall give consideration to*
36 *the following factors:*

37 (1) *Community values.*

38 (2) *Recreational and park areas.*

39 (3) *Historical and aesthetic values.*

(4) Influence on environment, except that in the case of any line, plant, or system or extension thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 (Chapter 55 (commencing with Section 4321) of Title 42 of the United States Code) or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state.

(b) With respect to any thermal powerplant or electrical transmission line for which a certificate is required pursuant to the provisions of Division 15 (commencing with Section 25000) of the Public Resources Code, no certificate of public convenience and necessity shall be granted pursuant to Section 1001 without such other certificate having been obtained first, and the decision granting such other certificate shall be conclusive as to all matters determined thereby and shall take the place of the requirement for consideration by the commission of the four factors specified in subdivision (a) of this section.

(c) With respect to any liquefied natural gas terminal for which a permit is required pursuant to the provisions of Article 6.5 (commencing with Section 25570) of Division 15 of the Public Resources Code, no certificate of public convenience and necessity shall be granted pursuant to this chapter without a permit having been obtained first, and the decision granting the permit shall be conclusive as to all matters determined thereby and shall take the place of the requirement for consideration by the commission of the four factors specified in subdivision (a) of this section.

SEC. 4. Section 1003 of the Public Utilities Code is amended to read:

1003. Every electrical and every gas corporation submitting an application to the commission for a certificate authorizing the new construction of any electric plant, line, or extension, or gas plant, line, or extension, not subject to the provisions of Chapter 6 (commencing with Section 25500) or Chapter 6.5 (commencing with Section 25570) of Division 15 of the Public Resources Code, shall include all of the following information in the application in addition to any other required information:

(a) Preliminary engineering and design information on the project. The design information provided for thermal electric plants shall include preliminary data regarding the operating characteristics of the proposed plant, including, but not limited to, the annual capacity factor, availability factor, and the heat rate for each year of the useful life of the plant, line, or extension.

(b) A project implementation plan showing how the project would be contracted for and constructed. This plan shall show how all major tasks would be integrated and shall include a timetable identifying the design, construction, completion, and operation dates for each major component of the plant, line, or extension.

(c) An appropriate cost estimate, including preliminary estimates of the costs of financing, construction, and operation, including fuel, maintenance, and dismantling or inactivation after the useful life of the plant, line, or extension.

(d) A cost analysis comparing the project with any feasible alternative sources of power. The corporation shall demonstrate the financial impact of the plant, line, or extension construction on the corporation's ratepayers, stockholders, and on the cost of the corporation's borrowed capital. The cost analyses shall be performed for the projected useful life of the plant, line, or extension, including dismantling or inactivation after the useful life of the plant, line, or extension.

(e) A design and construction management and cost control plan which indicates the contractual and working responsibilities and interrelationships between the corporation's management and other major parties involved in the project. This plan shall also include a construction progress information system and specific cost controls.

SEC. 5. This act shall only become operative if Senate Bill 1003 of the 2005–06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

~~26011.6. (a) The authority shall establish a renewable energy program to provide financial assistance to public power entities, independent generators, utilities, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow~~

1 ~~emission equipment. The authority shall give preference to~~
2 ~~utility-scale projects that can be rapidly deployed to provide a~~
3 ~~significant contribution as a renewable energy supply.~~

4 ~~(b) The authority shall make every effort to expedite the~~
5 ~~operation of renewable energy systems, and shall adopt~~
6 ~~regulations for purposes of this section and Section 26011.5 as~~
7 ~~emergency regulations in accordance with Chapter 3.5~~
8 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
9 ~~2 of the Government Code. For purposes of that Chapter 3.5,~~
10 ~~including Section 11349.6 of the Government Code, the adoption~~
11 ~~of the regulations shall be considered by the Office of~~
12 ~~Administrative Law to be necessary for the immediate~~
13 ~~preservation of the public peace, health and safety, and general~~
14 ~~welfare. Notwithstanding the 120-day limitation specified in~~
15 ~~subdivision (c) of Section 11346.1 of the Government Code, the~~
16 ~~regulations shall be repealed 190 days after their effective date,~~
17 ~~unless the authority complies with Sections 11346.2 to 11347.3,~~
18 ~~inclusive, as provided in subdivision (c) of Section 11346.1 of~~
19 ~~the Government Code.~~

20 ~~(c) The authority shall consult with the State Energy~~
21 ~~Resources Conservation and Development Commission~~
22 ~~regarding the financing of projects to avoid duplication of other~~
23 ~~renewable energy projects.~~

24 ~~(d) The authority shall ensure that any financed project shall~~
25 ~~offer its power within California on a long-term contract basis.~~

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 956

Introduced by Senator Simitian

February 22, 2005

~~An act to amend Section 7280 of the Revenue and Taxation Code, relating to taxation.~~ *An act to add Division 20.9 (commencing with Section 30990) to the Public Resources Code, and to add Section 7280.3 to the Revenue and Taxation Code, relating to coastal and ocean resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 956, as amended, Simitian. ~~Transient occupancy tax.~~ *Coast and Ocean Stewardship Act.*

Existing law authorizes the legislative body of a city, county, or a city and county to impose an excise tax for the privilege of occupying a living space in a hotel, inn, tourist home or house, motel, or other lodging space, as provided.

~~This bill would clarify that these provisions apply to the occupation of a living or lodging space in a hotel, inn, tourist home or house, motel, or other lodging space.~~

This bill would enact the Coast and Ocean Stewardship Act of 2005. The bill would levy a surcharge of \$1 per night per room on all charges for transient occupancy in the 20 counties that are located along the coast of the Pacific Ocean and the San Francisco Bay, including all cities within these counties, as well as the City and County of San Francisco.

The bill would provide that revenue collected from this surcharge shall be deposited in the Coast and Ocean Account Stewardship Tax (COAST) Fund, which the bill would establish. The bill would provide that money in the fund would, upon appropriation, be allocated to

specified entities to implement programs for coastal and ocean management.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

This bill would make legislative findings and declarations regarding the need for special legislation.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 7280 of the Revenue and Taxation~~
2 ~~Code is amended to read:~~

3 *SECTION 1. This act shall be known, and may be cited, as*
4 *the Coast and Ocean Stewardship Act of 2005.*

5 *SEC.2. The Legislature finds and declares all of the*
6 *following:*

7 *(a) California's coastal waters, and ocean and land*
8 *ecosystems associated with those waters, are natural resources*
9 *that must be protected by the government of California for future*
10 *generations.*

11 *(b) California's coast, ocean, and estuaries are precious,*
12 *irreplaceable resources of vital and enduring economic,*
13 *environmental, cultural, recreational, educational, and societal*
14 *importance to the state and to the nation.*

15 *(c) Sustaining healthy and ecologically robust and diverse*
16 *coast and ocean ecosystems, as well as maintaining the quality*
17 *and integrity of coastal land, air, and water resources for the*
18 *benefit of current and future generations, requires effective*
19 *stewardship that is supported by stable and adequate funding.*

20 *(d) Existing laws and programs to protect and restore marine*
21 *life, the coast, and the ocean, including the San Francisco Bay,*
22 *have been critically compromised due to historically inadequate*
23 *program funding, thereby endangering the economic and*
24 *environmental vitality of the coastal counties and the state as a*
25 *whole.*

1 (e) *Water quality at our coastal beaches is in jeopardy. In*
2 2003 alone, there were 5,384 beach closure days in California.
3 Eighty-nine percent of these were due to elevated bacteria levels
4 in the water, 6 percent from sewage or chemical spills, and 5
5 percent from preemptive rain advisories.

6 (f) *In 1998, California's beaches generated \$14 billion of*
7 *direct revenue and \$73 billion of indirect revenue.*

8 (g) *California beaches experience 567 million visitor days per*
9 *year.*

10 (h) *Approximately 80 percent of California's 36 million*
11 *residents live within a 30 mile drive from the Pacific Ocean.*

12 (i) *As California's coastal population increases, the number*
13 *and volume of discharges from industrial, residential, and*
14 *municipal facilities into our coastal waters also increase.*

15 (j) *Coastal and marine protection agencies have lost*
16 *significant resources, including staff, resulting from budget*
17 *reductions over the past several years, thus crippling their ability*
18 *to protect coastal resources as mandated by law.*

19 (k) *Continual inadequate funding of critical coastal and ocean*
20 *programs compels the Legislature to develop a permanent,*
21 *adequate funding source for coastal zone management.*

22 (l) *This funding source shall support coastal and ocean*
23 *management, operations, and maintenance activities that*
24 *implement the goals and objectives of all of the following:*

25 (1) *The Marine Life Protection Act (Chapter 10.5*
26 *(commencing with Section 2850) of Division 3 of the Fish and*
27 *Game Code).*

28 (2) *The Marine Life Management Act of 1998 (Chapter 1052*
29 *of the Statutes of 1998).*

30 (3) *The McAtteer-Petris Act (Title 7.2 (commencing with*
31 *Section 66600) of the Government Code).*

32 (4) *The Suisun Marsh Preservation Act of 1977 (Division 19*
33 *(commencing with Section 29000) of the Public Resources Code).*

34 (5) *The California Coastal Act (Division 20 (commencing with*
35 *Section 30000) of the Public Resources Code).*

36 SEC. 3. *It is the intent of the Legislature to do all of the*
37 *following:*

38 (a) *Maintain ongoing adequate funding levels for identified*
39 *coastal and ocean programs to enable the various entities to*
40 *carry out their respective missions.*

1 (b) Place a nominal tax on lodging in coastal counties that
2 directly benefit from tourism to raise revenue to enable the state
3 to sustain coastal and ocean resources for future generations.

4 (c) Work with the hospitality industry and the California
5 Travel and Tourism Commission to provide funding for an
6 ongoing national and international campaign to promote the
7 California coast as a world class tourist destination with
8 resulting economic benefits for the public and private sectors.

9 (d) Increase overall funding for the programs identified in this
10 act by \$75 million for fiscal year 2005–06, and provide for the
11 funding to be increased in subsequent fiscal years at a rate at
12 least equal to any percentage increase in the Consumer Price
13 Index.

14 SEC. 4. Section 7280.3 is added to the Revenue and Taxation
15 Code, to read:

16 7280.3. (a) A surcharge of one dollar (\$1) per night per
17 room, which shall be known as the Coast and Ocean Account
18 Stewardship Tax (COAST), shall be collected by the State Board
19 of Equalization on all charges for transient occupancy levied
20 pursuant to this chapter in the 20 counties that are located along
21 the coast of the Pacific Ocean and the San Francisco Bay,
22 including all cities within these counties, as well as the City and
23 County of San Francisco.

24 (b) The revenue collected from this surcharge shall be
25 deposited in the Coast and Ocean Account Stewardship Tax
26 (COAST) Fund, established by Section 30990 of the Public
27 Resources Code.

28 SEC. 5. Division 20.9 (commencing with Section 30990) is
29 added to the Public Resources Code, to read:

30
31 DIVISION 20.9. COAST AND OCEAN ACCOUNT
32 STEWARDSHIP TAX (COAST)
33

34 30990. (a) The Coast and Ocean Account Stewardship Tax
35 (COAST) Fund (hereafter the fund) is hereby created. The fund
36 shall be administered by the Secretary of the Resources Agency.

37 (b) The revenue collected from the surcharge levied pursuant
38 to Section 7280.3 of the Revenue and Taxation Code shall be
39 deposited in the fund and shall be utilized to fund the state's

1 coastal and ocean management programs pursuant to this
2 division.

3 (c) These funds may not be used to finance any program not
4 identified in this division. These funds may not be loaned to the
5 General Fund or any other special fund not specifically provided
6 for in this division.

7 30990.1. Upon appropriation, funds deposited into the fund
8 shall only be made available and shall be allocated pursuant to
9 the following schedule:

10 (a) A minimum of ____ percent to the Department of Fish and
11 Game to implement the Marine Life Protection Act (Chapter 10.5
12 (commencing with Section 2850) of Division 3 of the Fish and
13 Game Code) and the Marine Life Management Act of 1998
14 (Chapter 1052 of the Statutes of 1998).

15 (b) A minimum of ____ percent to the San Francisco Bay
16 Conservation and Development Commission to implement the
17 McAteer-Petris Act (Title 7.2 (commencing with Section 66600)
18 of the Government Code) and the Suisun Marsh Preservation Act
19 of 1977 (Division 19 (commencing with Section 29000)).

20 (c) ____ percent to the California Coastal Commission for
21 grants to local governments to update their local coastal
22 programs consistent with the California Coastal Act (Division 20
23 (commencing with Section 30000)).

24 (d) A minimum of ____ percent to the California Coastal
25 Commission to implement the California Coastal Act (Division
26 20 (commencing with Section 30000)).

27 (e) ____ percent to the California Travel and Tourism
28 Commission to promote tourism, including dining and overnight
29 accommodations, in the 20 coastal counties specified in Section
30 7280.3 of the Revenue and Taxation Code.

31 30990.2. (a) Subject to the availability of funds as
32 determined by Section 30990, funding shall be maintained at
33 sufficient levels to ensure that the programs identified in this
34 division fulfill the goals of the programs without interruption.

35 (b) Funding from this fund shall not preclude the use of
36 General Fund money to augment funding levels.

37 (c) The Resources Agency shall continue to seek available
38 federal funds where possible to carry out the purposes of this
39 division.

1 (d) The entities appropriated funds pursuant to this division
2 may use a maximum of 3 percent of the allocated funds for
3 reasonable and necessary administrative costs.

4 (e) Nothing in this division shall be construed to modify or
5 reduce the existing authority or responsibility of the entities
6 appropriated funds pursuant to this division.

7 30990.3. (a) By April 1 of each fiscal year, the Department
8 of Finance shall report to the Secretary of the Resources Agency
9 the amount of funds estimated to be available in the COAST
10 Fund for the following fiscal year for purposes identified in this
11 division.

12 (b) By May 15 of each fiscal year, the Secretary of the
13 Resources Agency shall submit to the Senate Budget and Fiscal
14 Review Committee, Assembly Budget Committee, and Legislative
15 Analyst's Office, a proposed division of the fund revenues
16 pursuant to the requirements of this division.

17 30990.4. The funding amounts specified in Section 30990.1
18 shall be deemed to be the minimum authorized for each program
19 for each fiscal year and shall be in addition to any funding the
20 identified entities may receive from other funding sources,
21 including, but not limited to, federal grant funds, other state
22 funding sources, or funding from nongovernmental sources.

23 SEC. 6. Due to the unique circumstances facing the 20
24 counties that are located along the coast of the Pacific Ocean
25 and the San Francisco Bay, including all cities within these
26 counties, as well as the City and County of San Francisco,
27 relating to the need to support coastal and ocean management,
28 the Legislature finds and declares that a general statute cannot
29 be made applicable within the meaning of Section 16 of Article
30 IV of the California Constitution. Therefore, the special
31 legislation contained in Section 4 of this bill is necessarily
32 applicable only to the 20 counties that are located along the
33 coast of the Pacific Ocean and the San Francisco Bay, including
34 all cities within these counties, as well as the City and County of
35 San Francisco.

36 ~~7280. (a) The legislative body of any city, county, or city and~~
37 ~~county may levy a tax on the privilege of occupying a room or~~
38 ~~rooms, or other living or lodging space, in a hotel, inn, tourist~~
39 ~~home or house, motel, or other living or lodging space unless the~~
40 ~~occupancy is for a period of more than 30 days. The tax, when~~

1 levied by the legislative body of a county, applies only to the
2 unincorporated areas of the county.

3 (b) For purposes of this section, the term “the privilege of
4 occupying a room or rooms, or other living or lodging space, in a
5 hotel, inn, tourist home or house, motel, or other living or
6 lodging space” does not include the right of an owner of a
7 time-share estate in a room or rooms in a time-share project, or
8 the owner of a membership camping contract in a camping site at
9 a campground, or the guest of the owner, to occupy the room,
10 rooms, camping site, or other real property in which the owner
11 retains that interest.

12 For purposes of this subdivision:

13 (1) “Time-share estate” means a time-share estate, as defined
14 by paragraph (1) of subdivision (x) of Section 11212 of the
15 Business and Professions Code.

16 (2) “Membership camping contract” means a right or license
17 as defined by subdivision (b) of Section 1812.300 of the Civil
18 Code.

19 (3) “Guest of that owner” means a person who does either of
20 the following:

21 (A) Occupies real property accompanied by the owner of
22 either of the following:

23 (i) A time-share estate in that real property.

24 (ii) A camping site in a campground pursuant to a right or
25 license under a membership camping contract.

26 (B) Exercises that owner’s right of occupancy without
27 payment of any compensation to the owner.

28 (C) “Guest of that owner” specifically includes a person
29 occupying a time-share unit or a camping site in a campground
30 pursuant to any form of exchange program.

31 (e) For purposes of this section, “other living or lodging
32 space” includes, but is not limited to, a camping site or a space at
33 a campground or recreational vehicle park, but does not include
34 any of the following:

35 (1) Any facilities operated by a local government entity.

36 (2) Any lodging excluded pursuant to subdivision (b).

37 (3) Any campsite excluded from taxation pursuant to Section
38 7282.

39 (d) Subdivision (b) does not affect or apply to the authority of
40 any city, county, or city and county to collect a transient

1 occupancy tax from time-share projects that were in existence as
2 of May 1, 1985, and which time-share projects were then subject
3 to a transient occupancy tax imposed by an ordinance duly
4 enacted prior to May 1, 1985, pursuant to this section. Chapter
5 257 of the Statutes of 1985 may not be construed to affect any
6 litigation pending on or prior to December 31, 1985.

7 (e) (1) (A) If the legislative body of a city, county, or city and
8 county elects to exempt from a tax imposed pursuant to this
9 section any of the following persons whose occupancy is for the
10 official business of their employers, the legislative body shall
11 create a standard form to claim this exemption and the officer or
12 employee claiming the exemption shall sign the form under
13 penalty of perjury:

14 (i) An employee or officer of a government outside the United
15 States:

16 (ii) An employee or officer of the United States government.

17 (iii) An employee or officer of the state government or of the
18 government of a political subdivision of the state.

19 (B) The standard form described in subparagraph (A) shall
20 contain a requirement that the employee or officer claiming the
21 exemption provide to the property owner one of the following, as
22 determined by the legislative body of the city, county, or city and
23 county imposing the tax, as conclusive evidence that his or her
24 occupancy is for the official business of his or her employer:

25 (i) Travel orders from his or her government employer.

26 (ii) A government warrant issued by his or her employer to
27 pay for the occupancy.

28 (iii) A government credit card issued by his or her employer to
29 pay for the occupancy.

30 (C) The standard form described in subparagraph (A) shall
31 contain a requirement that the officer or employee provide photo
32 identification, proof of his or her governmental employment as
33 an employee or officer as described in clause (i), (ii), or (iii) of
34 subparagraph (A), and proof, consistent with the provisions of
35 subparagraph (B), that his or her occupancy is for the official
36 business of his or her governmental employer.

37 (2) There shall be a rebuttable presumption that a property
38 owner is not liable for the tax imposed pursuant to this section
39 with respect to any government employee or officer described in
40 clause (i), (ii), or (iii) of subparagraph (A) of paragraph (1) for

1 ~~whom the property owner retains a signed and dated copy of a~~
2 ~~standard form that complies with the provisions of subparagraphs~~
3 ~~(B) and (C) of paragraph (1).~~

4 ~~(f) The provisions of subdivision (e) are not intended to~~
5 ~~preclude a city, county, or city and county from electing to~~
6 ~~exempt any other class of persons from the tax imposed pursuant~~
7 ~~to this section.~~

O

AMENDED IN SENATE APRIL 13, 2005

SENATE BILL

No. 1003

Introduced by Senator Escutia

February 22, 2005

An act to ~~amend Section 25322~~ add Chapter 6.5 (commencing with Section 25570) to Division 15 of the Public Resources Code, relating to the State Energy Resources Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1003, as amended, Escutia. ~~State Energy Resources Conservation and Development Commission: reports: confidentiality and disclosure.~~ *Energy resources: liquefied natural gas terminals.*

(1) Existing law, until January 1, 1988, authorized the Public Utilities Commission to issue a permit for the construction and operation of a liquefied natural gas terminal pursuant to a prescribed permit procedure.

This bill would enact the Liquefied Natural Gas Evaluation and Terminal Permitting Act. The bill would authorize the State Energy Resources Conservation and Development Commission (energy commission) to establish a permitting process for the construction and operation of liquefied natural gas terminals, as defined.

The bill would provide that a permit may contain conditions necessary or appropriate to ensure the public health, safety, and welfare and other terms and conditions, as provided. The bill would require the energy commission to adopt regulations governing the safety and construction of a terminal, as provided.

(2) The bill would provide that it is to become operative only if SB 426 of the 2005–06 Regular Session is also enacted and becomes operative on or before January 1, 2006.

~~Existing law requires the State Energy Resources Conservation and Development Commission to manage a data collection system for obtaining information necessary to develop specified energy policy reports and analyses and energy shortage contingency planning efforts, and to support other duties of the commission, as prescribed. Existing law requires that the data collection system include specified requirements regarding the confidentiality of the information collected by the commission. Subject to specified confidentiality requirements, existing law authorizes the commission to grant requests for disclosure of records of information collected by the commission for the data collection system.~~

~~This bill would require the commission to grant a disclosure request if disclosure will not result in an unfair competitive disadvantage to the person who submitted the information, unless the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing the information, or unless another applicable provision of law exempts the information from disclosure. The bill would exempt information withheld by the commission from disclosure under the California Public Records Act.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 25322 of the Public Resources Code is~~
- 2 ~~amended to read:~~
- 3 ~~SECTION 1. (a) The Legislature finds and declares all of the~~
- 4 ~~following:~~
- 5 ~~(1) Liquefied natural gas may need to be imported into this~~
- 6 ~~state in order to meet consumer demand for natural gas at~~
- 7 ~~reasonable prices, which would require the construction of one~~
- 8 ~~or more liquefied natural gas terminals and associated~~
- 9 ~~infrastructure.~~
- 10 ~~(2) Several liquefied natural gas terminals have been~~
- 11 ~~proposed to serve natural gas consumers in this state.~~
- 12 ~~(3) It is in the public interest for the state to conduct an~~
- 13 ~~orderly and comprehensive public assessment of the impacts of~~
- 14 ~~the construction and operation of liquefied natural gas terminals~~
- 15 ~~on the economy, consumers, the environment, and public health~~
- 16 ~~and safety.~~

(4) *Public assessment of these impacts is a matter of statewide concern, and existing law reserves authority for that assessment to the state.*

(b) *It is the intent of the Legislature, in enacting this act, to establish clear statutory procedures by which the state may exercise its duties and authority with respect to the assessment and permitting of proposed liquefied natural gas terminals.*

SEC. 2. *Chapter 6.7 (commencing with Section 25570) is added to Division 15 of the Public Resources Code, to read:*

CHAPTER 6.5. LIQUEFIED NATURAL GAS EVALUATION
AND TERMINAL PERMITTING ACT

Article 1. General Provisions

25570. *This chapter shall be known and may be cited as the Liquefied Natural Gas Evaluation and Terminal Permitting Act.*

25570.1. *For purposes of this chapter, the following definitions apply:*

(a) *“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account all of the following:*

(1) *Economic, environmental, social, technological, safety, and reliability factors.*

(2) *Gas supply and demand forecasts.*

(3) *Alternative sources of natural gas.*

(b) *“Liquefied natural gas” or “LNG” means natural gas cooled to minus 259 degrees fahrenheit so that it forms a liquid at approximately atmospheric pressure.*

(c) *“Liquefied natural gas terminal,” “terminal,” or “LNG terminal,” means facilities designed to receive liquefied natural gas from ocean-going vessels, including those facilities required for storage and regasification of the liquefied natural gas and those pipelines and facilities necessary for the transmission of the regasified natural gas to the point of interconnection with existing pipelines.*

(d) *“Local government” means a city, county, or city and county, whether chartered or general law, and a district.*

(e) *“Offshore” means a location seaward of the mean high tide line of mainland California, including all islands.*

1 (f) “Onshore” means a location on the mainland of California
2 landward of the mean high tide line.

3 (g) “Permit” means the single authorization provided
4 pursuant to this chapter to construct and operate an LNG
5 terminal in this state.

6 (h) “Person” means an individual, organization, partnership,
7 or other business association or corporation, the federal
8 government, the state government, any local government, and
9 any agency or instrumentality of any of those entities.

10 (i) “State government” means the State of California or an
11 agency, board, commission, or instrumentality thereof.

12 25570.2. A person shall not construct or operate an LNG
13 terminal without obtaining a permit pursuant to this chapter.

14 25570.3. The issuance of a permit by the commission shall be
15 in lieu of all other permits, licenses, certificates, or other
16 entitlements for use required by an agency of state or local
17 government for the construction or operation of an LNG
18 terminal, to the extent permitted by federal statute or regulation
19 or a federal-state agreement relating to water discharge permits.
20 Also, to the extent permitted by federal statute or regulation, the
21 permit shall also be in lieu of all other permits, licenses,
22 certificates, or other entitlements for use issued by an agency,
23 department, or instrumentality of the federal government.

24 25570.4. The commission shall charge each person who
25 applies for a permit pursuant to this chapter a fee, which shall be
26 sufficient to reimburse the commission for the costs incurred in
27 processing the application.

28 25570.5. All state agencies shall cooperate with and, at the
29 request of the commission, shall execute interagency agreements
30 to assist the commission in evaluating a site identified pursuant
31 to Article 2 (commencing with Section 25571). The costs
32 incurred by a state agency as the result of an interagency
33 agreement shall be paid by the commission and shall be
34 reimbursed from fees collected pursuant to Section 25570.4.

35 25570.6. If it is necessary to obtain a lease, easement, or
36 other interest in real property from the State Lands Commission
37 in order to construct and operate a terminal, the lease, easement,
38 or other interest shall be obtained from the State Lands
39 Commission. The Legislature finds and declares that leasing of
40 state lands for the purpose of constructing and operating a

1 terminal approved pursuant to this chapter is in the public
2 interest; and that if that lease is required to construct and
3 operate a terminal, the State Lands Commission shall enter into
4 that lease.

5 25570.7. If any provision of this chapter or the application
6 thereof to any person or circumstances is held invalid, that
7 invalidity shall not affect other provisions or applications of this
8 chapter that can be given effect without the invalid provision or
9 application, and to this end the provisions of this chapter are
10 severable.

11
12 *Article 3. Application for Permit*
13

14 25572. The permit application shall contain the following
15 information:

16 (a) Information, including maps and pictorial and written
17 descriptions of present and proposed development for the site,
18 and relevant geological, archeological, aesthetic, ecological, and
19 seismic marine transport data.

20 (b) A detailed description of the proposed engineering design
21 features, proposed methods of construction, and proposed
22 operating procedures for the terminal, and the proposed plan for
23 marine operations, including shipping routes and control
24 procedures.

25 (c) An analysis of accident possibilities, consequences, and
26 risks for the terminal.

27 (d) Information regarding safety and public protection
28 features, including fire protection measures, marine navigational
29 systems, emergency systems for shutting down the terminal, and
30 other contingency plans for accidents.

31 (e) Information regarding the cost of the terminal, fuel
32 consumption by operating terminal equipment, service life of the
33 terminal, and capacity of the terminal.

34 (f) Information regarding the source of liquefied natural gas,
35 including the contractual terms for the delivery of gas supplies.

36 (g) A description of all proposed or existing natural gas
37 transmission lines related to the proposed terminal, including a
38 map, in suitable scale, of the routing that shows details of the
39 right-of-way in the vicinity of populated or developed areas,
40 parks, and recreational areas; the justification for the route; and

1 *a preliminary statement of the effect of any proposed natural gas*
2 *transmission line on the environment.*

3 *(h) A description of contingency plans for transmitting*
4 *equivalent volumes of natural gas in the event of both short- and*
5 *long-term interruptions of the LNG supply system for the*
6 *proposed terminal.*

7 *(i) A description of the proposed method of financing the*
8 *terminal and analysis of the costs of the terminal on natural gas*
9 *consumers in this state.*

10 *(j) The result of the commission's ranking pursuant to Article*
11 *2 (commencing with Section 25571).*

12 *(k) Any other information that the applicant deems necessary*
13 *or desirable to support its application and better inform the*
14 *commission and the public.*

15 *25572.1. At any time after the filing of the application, the*
16 *commission may require the applicant to furnish additional,*
17 *relevant information as may be necessary to carry out the*
18 *purposes of this chapter.*

19
20 *Article 4. Permit to Construct and Operate an LNG Terminal*
21

22 *25576. The commission shall issue a decision on an*
23 *application for a permit to construct and operate an LNG*
24 *terminal pursuant to this article.*

25 *25576.1. (a) The commission shall not issue a permit for*
26 *construction and operation of a terminal at a site that is not*
27 *evaluated and ranked pursuant to Article 2 (commencing with*
28 *Section 25571).*

29 *(b) If the commission issues a permit, the commission shall*
30 *issue a permit for construction and operation at the site*
31 *designated as the highest ranked site. However, the commission*
32 *may select a lower ranked site if it has determined with respect to*
33 *each higher ranked site that it is not feasible to complete*
34 *construction and commence operations of the terminal at the*
35 *higher ranked site in sufficient time to prevent significant*
36 *curtailment of high priority requirements for natural gas and that*
37 *approval of the lower ranked site will significantly reduce that*
38 *curtailment.*

39 *25576.2. (a) The commission shall not issue a permit for*
40 *construction and operation at any site unless it finds that to do so*

1 *is consistent with the public health, safety, and welfare and may*
2 *impose any conditions on the issuance of a permit that may be*
3 *necessary or appropriate to ensure the public health, safety, and*
4 *welfare.*

5 *(b) Prior to issuing a permit for construction and operation at*
6 *a site, the commission shall review all comments on the site*
7 *submitted by the State Water Resources Control Board, a*
8 *regional water board, or a regional air district.*

9 *25576.3. If the commission issues a permit for construction*
10 *and operation, it shall impose as a condition of the permit each*
11 *term and condition recommended for the selected site pursuant to*
12 *Article 2 (commencing with Section 25571), unless the*
13 *commission first finds with respect to each term or condition any*
14 *of the following:*

15 *(a) Imposition of the term or condition will cause delays in*
16 *commencement of terminal operations that will result in*
17 *significant curtailment of high priority natural gas requirements*
18 *and that deletion or modification of the term or condition will*
19 *avoid or significantly reduce that curtailment.*

20 *(b) The report recommending the term or condition was not*
21 *based on substantial evidence, considering the record as a*
22 *whole.*

23 *(c) Imposition of the term or condition will adversely affect*
24 *public health or safety.*

25 *25576.4. If the commission proposes to issue a permit for the*
26 *construction and operation of a terminal at a site not specified in*
27 *an application submitted pursuant to this chapter, the applicant*
28 *may amend an application to specify that other site.*

29 *25576.5. (a) For the purposes of this chapter, the*
30 *commission shall be the lead agency for the purpose of*
31 *complying with Division 13 (commencing with Section 21000).*

32 *(b) In fulfilling its responsibilities pursuant to Division 13*
33 *(commencing with Section 21000), the commission may, upon*
34 *payment of appropriate consideration, become the successor in*
35 *interest to any local government or entity of state government*
36 *that has any outstanding contract that is germane to the*
37 *commission's responsibilities under this section.*

38 *25576.6. (a) Prior to issuance of a permit to construct and*
39 *operate a terminal, the commission shall hold at least one public*

1 *hearing in the city or county where the terminal is proposed to be*
2 *located.*

3 *(b) To the greatest extent possible, the commission shall*
4 *expeditiously provide information to that city or county and*
5 *cooperate with requests for information to enable the city or*
6 *county to develop and present recommendations in a timely*
7 *fashion.*

8 *(c) The city or county within whose jurisdiction the terminal is*
9 *proposed to be located may hold public hearings on the proposed*
10 *terminal.*

11 *(d) The city or county may make appropriate*
12 *recommendations to the commission, including, but not limited*
13 *to, recommendations regarding safety, protection of the*
14 *environment, and local land use.*

15 *25576.7. (a) The commission shall adopt regulations*
16 *governing the safety and construction of a terminal. In adopting*
17 *these regulations the commission shall consult with the Division*
18 *of Industrial Safety of the Department of Industrial Relations and*
19 *with all other relevant state or federal agencies, for the provision*
20 *of information as the commission may require.*

21 *(b) The commission shall establish a monitoring system to*
22 *ensure that a terminal authorized pursuant to this chapter is*
23 *constructed and operated in compliance with all applicable*
24 *regulations adopted and terms and conditions established*
25 *pursuant to this chapter.*

26 *25576.8. The Public Utilities Commission shall monitor costs*
27 *incurred by a person or entity subject to its regulation in the*
28 *construction, or in the preparation for construction, of a terminal*
29 *subject to this chapter in order to determine if the costs are in the*
30 *best interests of the ratepayers. This monitoring may commence*
31 *prior to the issuance of a permit pursuant to this chapter.*

32 *25576.9. No provision of this article shall be construed to*
33 *abridge or limit in any manner the jurisdiction of the Division of*
34 *Industrial Safety of the Department of Industrial Relations*
35 *conferred pursuant to Division 5 (commencing with Section*
36 *6300) of the Labor Code. Notwithstanding Section 7624 of the*
37 *Labor Code, all matters relating to LNG storage tanks shall be*
38 *within the jurisdiction of the Division of Industrial Safety, except*
39 *for those provisions pertaining to the issuance of permits.*

1 *SEC. 4. This act shall become operative only if SB 426 of the*
2 *2005–06 Regular Session is also enacted and becomes operative*
3 *on or before January 1, 2006.*

4 ~~25322. (a) The data collection system managed pursuant to~~
5 ~~Section 25320 shall include the following requirements regarding~~
6 ~~the confidentiality of the information collected by the~~
7 ~~commission:~~

8 ~~(1) A person required to present information to the~~
9 ~~commission pursuant to this section may request that specific~~
10 ~~information be held in confidence. The commission shall grant~~
11 ~~the request in the following circumstances:~~

12 ~~(A) The information is exempt from disclosure under the~~
13 ~~California Public Records Act, Chapter 3.5 (commencing with~~
14 ~~Section 6250) of Division 7 of Title 1 of the Government Code.~~

15 ~~(B) The information satisfies the confidentiality requirements~~
16 ~~of Article 2 (commencing with Section 2501) of Chapter 7 of~~
17 ~~Division 2 of Title 20 of the California Code of Regulations, as~~
18 ~~those regulations existed on January 1, 2002.~~

19 ~~(C) On the facts of the particular case, the public interest~~
20 ~~served by not disclosing the information clearly outweighs the~~
21 ~~public interest served by disclosure of the information.~~

22 ~~(2) The commission may, by regulation, designate certain~~
23 ~~categories of information as confidential, which removes the~~
24 ~~obligation to request confidentiality for that information.~~

25 ~~(3) Confidential information pertinent to the responsibilities~~
26 ~~of the commission specified in this chapter that is obtained by~~
27 ~~another state agency, or the California Independent System~~
28 ~~Operator or its successor, shall be available to the commission~~
29 ~~and shall be treated in a confidential manner.~~

30 ~~(4) Information presented to or developed by the commission~~
31 ~~and deemed confidential pursuant to this section shall be held in~~
32 ~~confidence by the commission. Confidential information shall be~~
33 ~~aggregated or masked to the extent necessary to assure~~
34 ~~confidentiality if public disclosure of the specific information~~
35 ~~would result in an unfair competitive disadvantage to the person~~
36 ~~supplying the information.~~

37 ~~(b) Requests for records of information shall be handled as~~
38 ~~follows:~~

39 ~~(1) If the commission receives a written request to publicly~~
40 ~~disclose information that is being held in confidence pursuant to~~

1 ~~paragraph (1) or (2) of subdivision (a), the commission shall~~
2 ~~provide the person making the request with written justification~~
3 ~~for the confidential designation and a description of the process~~
4 ~~to seek disclosure.~~

5 ~~(2) If the commission receives a written request to publicly~~
6 ~~disclose a disaggregated or unmasked record of information~~
7 ~~designated as confidential under paragraph (1) or (2) of~~
8 ~~subdivision (a), notice of the request shall be provided to the~~
9 ~~person who submitted the record. Upon receipt of the notice, the~~
10 ~~person who submitted the record may, within five working days~~
11 ~~of receipt of the notice, provide a written justification of the~~
12 ~~claim of confidentiality.~~

13 ~~(3) The commission or its designee shall rule on a request~~
14 ~~made pursuant to paragraph (2) on or before 20 working days~~
15 ~~after its receipt. The commission shall deny the request if the~~
16 ~~disclosure will result in an unfair competitive disadvantage to the~~
17 ~~person who submitted the information. If disclosure will not~~
18 ~~result in an unfair competitive disadvantage to the person who~~
19 ~~submitted the information, the commission shall grant the request~~
20 ~~unless the public interest served by not disclosing the information~~
21 ~~clearly outweighs the public interest served by disclosing the~~
22 ~~information, or unless another applicable provision of law~~
23 ~~exempts the information from disclosure.~~

24 ~~(4) If the commission grants the request pursuant to paragraph~~
25 ~~(3), it shall withhold disclosure for a reasonable amount of time,~~
26 ~~not to exceed 14 working days, to allow the submitter of the~~
27 ~~information to seek judicial review.~~

28 ~~(e) Information submitted to the commission pursuant to this~~
29 ~~section is not confidential if the person submitting the~~
30 ~~information has made it public.~~

31 ~~(d) The commission shall establish, maintain, and use~~
32 ~~appropriate security practices and procedures to ensure that the~~
33 ~~information it has designated as confidential, or received with a~~
34 ~~confidential designation from another government agency, is~~
35 ~~protected against disclosure other than that authorized using the~~
36 ~~procedures in subdivision (b). The commission shall incorporate~~
37 ~~the following elements into its security practices and procedures:~~

38 ~~(1) Commission employees shall sign a confidential data~~
39 ~~disclosure agreement providing for various remedies, including,~~

1 but not limited to, fines and termination for wrongful disclosure
2 of confidential information.

3 (2) ~~Commission employees, or contract employees of the~~
4 ~~commission, shall only have access to confidential information~~
5 ~~when it is appropriate to their job assignments and if they have~~
6 ~~signed a nondisclosure agreement.~~

7 (3) ~~Computer data systems that hold confidential information~~
8 ~~shall include sufficient security measures to protect the data from~~
9 ~~inadvertent or wrongful access by unauthorized commission~~
10 ~~employees and the public.~~

11 (e) ~~Data collected by the commission on petroleum fuels in~~
12 ~~Section 25320 shall be subject to the confidentiality provisions of~~
13 ~~Sections 25364 to 25366, inclusive.~~

14 (f) ~~Information withheld by the commission pursuant to this~~
15 ~~section is not subject to disclosure under the Public Records Act~~
16 ~~(Chapter 3.5 (commencing with Section 6250) of Division 7 of~~
17 ~~Title 1 of the Government Code.~~

AMENDED IN ASSEMBLY APRIL 7, 2005
AMENDED IN ASSEMBLY MARCH 30, 2005
CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 328

**Introduced by Assembly Members DeVore and McCarthy
(Coauthors: Assembly Members Cogdill, Keene, Liu, Maze, Tran;
~~Walters,~~ and Wyland)**

February 10, 2005

An act to add Section 5017 to the Public Resources Code, relating to state parks, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 328, as amended, DeVore. Crystal Cove State Park: El Morro Village Mobilehome Park.

Under existing law, the Department of Parks and Recreation within the Resources Agency administers the operation of state parks in the state.

This bill would prohibit the Department of Parks and Recreation from converting the El Morro Village Mobilehome Park located in Crystal Cove State Park to a recreational vehicle campground and day-use park provided specified conditions are met. Money generated from a 30-year lease of the mobilehome park and *fees for* recreational vehicle *parking* and day-use parking-*fees* would be deposited into the General Fund to be expended for the purpose of reducing the deficit for the 2005–06 fiscal year.

The bill would prohibit the Department of Parks and Recreation from allocating money appropriated in the Budget Act of 2004 for the

conversion of the El Morro Village Mobilehome Park in Crystal Cove State Park.

The bill would declare that, due to the special circumstances applicable only to the El Morro Village Mobilehome Park in Crystal Cove State Park, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The state budget for California is facing its third straight
4 year of a deficit, with this year's budget deficit expected to be
5 \$9.1 billion. The state needs all the additional revenue it can find.

6 (b) Evicting the tenants of the El Morro Village Mobilehome
7 Park – as envisioned by the 22-year-old general plan for Crystal
8 Cove State Park that the Department of Parks and Recreation
9 wishes to immediately implement – would cost the state one
10 million two hundred thousand dollars (\$1,200,000) in cash profit
11 annually.

12 (c) The El Morro Village Mobilehome Park conversion will
13 cost the state more than ten million dollars (\$10,000,000). The
14 final phase of the department's plan also includes construction of
15 a permanent lifeguard station at the park at a cost of several
16 million dollars. It is not appropriate for the state to take on this
17 large, financial obligation at a time when it is having difficulty
18 financing its other, more important responsibilities and priorities.

19 (d) The tenants of the El Morro Village Mobilehome Park are
20 willing to enter into a 30-year lease generating fifty million
21 dollars (\$50,000,000) immediately for the state. The tenants are
22 also willing to pay for connecting to a sanitary sewer line.

23 (e) If the El Morro Village Mobilehome Park is destroyed, a
24 substantial majority of the displaced residents would be those
25 with low incomes or seniors who, in the current local housing
26 market, would be hard pressed to find adequate housing in an

1 area that has been home to many of them for generations. Low
2 income and senior housing is an urgent priority for this state.

3 (f) The El Morro Village Mobilehome Park is likely the oldest
4 such establishment in Orange County, has been a stabilizing
5 factor in the lives of many families over several generations, and
6 is a candidate for the National Register of Historic Places.

7 (g) If the state implements the 22-year-old conversion plan, it
8 will realize substantially reduced revenues and profits from the
9 recreational vehicle campground and day-use parking it envisions
10 for Crystal Cove State Park, while incurring significant capital
11 construction costs.

12 SEC. 2. Section 5017 is added to the Public Resources Code,
13 to read:

14 5017. (a) The Department of Parks and Recreation shall not
15 convert the El Morro Village Mobilehome Park located in
16 Crystal Cove State Park to a recreational vehicle campground
17 and day-use park if all of the following conditions are met:

18 (1) The tenants of the El Morro Village Mobilehome Park pay
19 rent to the state in the amount of fifty million dollars
20 (\$50,000,000) for a 30-year lease. This rent payment may be
21 made by means of a privately issued and financed bond.

22 (2) Recreational vehicle parking and day-use parking are
23 available within the El Morro Village Mobilehome Park for
24 nonresidents of the mobilehome park.

25 (b) The money generated from the lease, ~~recreational vehicle~~
26 ~~parking fees, and day-use parking fees~~ *and fees for recreational*
27 *vehicle parking and day-use parking* shall be deposited in the
28 General Fund to be expended for the purpose of reducing the
29 deficit for the 2005–06 fiscal year.

30 SEC. 3. Notwithstanding Item 3790-301-0005 of Section 2.00
31 of the Budget Act of 2004, the Department of Parks and
32 Recreation shall not allocate any of the ten million forty-seven
33 thousand dollars (\$10,047,000) appropriated for the conversion
34 of the El Morro Village Mobilehome Park in Crystal Cove State
35 Park (Schedule (1) 90-GI. 101) and the department shall not use
36 those funds for any other purpose.

37 SEC. 4. The Legislature finds and declares that, because of
38 the unique circumstances applicable only to the El Morro Village
39 Mobilehome Park in Crystal Cove State Park, a statute of general
40 applicability cannot be enacted within the meaning of

1 subdivision (b) of Section 16 of Article IV of the California
2 Constitution. Therefore, this special statute is necessary.

3 SEC. 5. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety
5 within the meaning of Article IV of the Constitution and shall go
6 into immediate effect. The facts constituting the necessity are:

7 In order to prevent the imminent displacement of residents of
8 the El Morro Village Mobilehome Park in Crystal Cove State
9 Park and the destruction of the mobilehome park, it is necessary
10 that this act take effect immediately.

AMENDED IN ASSEMBLY APRIL 13, 2005

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 329

**Introduced by Assembly Members DeVore and McCarthy
(Coauthors: Assembly Members Cogdill, Keene, Liu, Maze, Tran,
Walters, and Wyland)**

February 10, 2005

An act to add Section 5017 to the Public Resources Code, relating to state parks, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 329, as amended, DeVore. Crystal Cove State Park: El Morro Village Mobilehome Park.

Under existing law, the Department of Parks and Recreation within the Resources Agency administers the operation of state parks in the state.

This bill would prohibit the Department of Parks and Recreation from converting the El Morro Village Mobilehome Park located in Crystal Cove State Park to a recreational vehicle campground and ~~recreational vehicle and day-use park~~ *provided if* specified conditions are met. Money generated from increased rent and *fees for recreational vehicle parking and day-use parking* ~~fees~~ would be deposited into the Deferred Maintenance Account, which the bill ~~creates~~ *would create* in the State Parks and Recreation Fund, ~~and~~. *Money in the account would* be continuously appropriated for deferred maintenance of state parks.

The bill would prohibit the Department of Parks and Recreation from allocating money appropriated in the Budget Act of 2004 for the conversion of the El Morro Village Mobilehome Park in Crystal Cove State Park.

The bill would declare that, due to the special circumstances applicable only to the El Morro Village Mobilehome Park in Crystal Cove State Park, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) In 1982, the Department of Parks and Recreation had 235
- 4 state parks totaling 1.2 million acres and a backlog of ten million
- 5 eight hundred thousand dollars (\$10,800,000) in deferred
- 6 maintenance. In 2004, those numbers had risen to 278 parks,
- 7 totaling 1.5 million acres, with a backlog of four hundred
- 8 sixty-six million dollars (\$466,000,000) in deferred maintenance.
- 9 (b) The State Budget for California is facing its third straight
- 10 year of a deficit, with this year's budget deficit expected to be
- 11 \$9.1 billion. The state needs all the additional revenue it can find.
- 12 (c) Evicting the tenants of the El Morro Village Mobilehome
- 13 Park – as envisioned by the 22-year-old general plan for Crystal
- 14 Cove State Park that the Department of Parks and Recreation
- 15 wishes to immediately implement – would cost the state one
- 16 million two hundred thousand dollars (\$1,200,000) in cash profit
- 17 annually. The El Morro Village Mobilehome Park conversion
- 18 will cost the state more than ten million dollars (\$10,000,000).
- 19 The final phase of the department's plan also includes
- 20 construction of a permanent lifeguard station at the park at a cost
- 21 of several million dollars.
- 22 (d) The tenants of the El Morro Village Mobilehome Park are
- 23 willing to increase the rent they pay to market rates, which would
- 24 generate a cash profit of at least three million two hundred

1 thousand dollars (\$3,200,000) annually. The tenants are also
2 willing to pay for connecting to a sanitary sewer line.

3 (e) The money generated from an increase in rents should
4 accrue to the Department of Parks and Recreation exclusively in
5 a fund designated for park maintenance, with no prejudice to the
6 department in the Budget Act of 2005 or in following years'
7 budgets by the Department of Finance.

8 (f) If the El Morro Village Mobilehome Park is destroyed, a
9 substantial majority of the displaced residents would be those
10 with low incomes or seniors who, in the current local housing
11 market, would be hard pressed to find adequate housing in an
12 area that has been home to many of them for generations. Low
13 income and senior housing is an urgent priority for this state.

14 (g) The El Morro Village Mobilehome Park is likely the oldest
15 such establishment in Orange County, has been a stabilizing
16 factor in the lives of many families over several generations, and
17 is a candidate for the National Register of Historic Places.

18 (h) If the state implements the 22-year-old conversion plan, it
19 will realize substantially reduced revenues and profits from the
20 recreational vehicle campground and day-use parking it envisions
21 for Crystal Cove State Park, while incurring significant capital
22 construction costs. This would be irresponsible at a time when
23 the state desperately needs every source of revenue it can get.

24 SEC. 2. Section 5017 is added to the Public Resources Code,
25 to read:

26 5017. (a) The Department of Parks and Recreation shall not
27 convert the El Morro Village Mobilehome Park located in
28 Crystal Cove State Park to a recreational vehicle campground
29 and day-use park if all of the following conditions are met:

30 (1) The tenants of the El Morro Village Mobilehome Park pay
31 rent at the market rate, as adjusted annually in accordance with
32 the Consumer Price Index, for a period of not less than 10 years
33 and not more than 30 years. This rent payment may be made by
34 means of a privately issued and financed bond.

35 (2) The department shall auction each lease to the highest
36 bidder.

37 (3) Recreational vehicle parking and day-use parking are
38 available within the El Morro Village Mobilehome Park for
39 nonresidents of the mobilehome park.

1 (4) ~~The~~ *By a competitive bid, the* department shall select a
2 management company to operate the park ~~by means of a~~
3 ~~competitive bid.~~

4 (b) The money generated from the increased rent and fees for
5 recreational vehicle parking and day-use parking at the El Morro
6 Village Mobilehome Park located in Crystal Cove State Park
7 shall be deposited into the Deferred Maintenance Account, which
8 is hereby created in the State Parks and Recreation Fund that was
9 established by Section 5010. Notwithstanding Section 13340 of
10 the Government Code, money in the account is hereby
11 continuously appropriated to the Department of Parks and
12 Recreation without regard to fiscal years for the purpose of
13 paying for deferred maintenance projects.

14 SEC. 3. Notwithstanding Item 3790-301-0005 of Section 2.00
15 of the Budget Act of 2004, the Department of Parks and
16 Recreation shall not allocate any of the ten million forty-seven
17 thousand dollars (\$10,047,000) appropriated for the conversion
18 of the El Morro Village Mobilehome Park in Crystal Cove State
19 Park (Schedule (1) 90-GI. 101) and the department shall not use
20 those funds for any other purpose.

21 SEC. 4. The Legislature finds and declares that, because of
22 the unique circumstances applicable only to the El Morro Village
23 Mobilehome Park in Crystal Cove State Park, a statute of general
24 applicability cannot be enacted within the meaning of
25 subdivision (b) of Section 16 of Article IV of the California
26 Constitution. Therefore, this special statute is necessary.

27 SEC. 5. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety
29 within the meaning of Article IV of the Constitution and shall go
30 into immediate effect. The facts constituting the necessity are:

31 In order to prevent the imminent displacement of residents of
32 the El Morro Village Mobilehome Park in Crystal Cove State
33 Park and the destruction of the mobilehome park, it is necessary
34 that this act take effect immediately.

AMENDED IN ASSEMBLY APRIL 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1612

Introduced by Assembly Member Pavley
(Principal coauthors: Assembly Members Jones and Saldana)
(Principal coauthor: Senator Chesbro)
(Coauthors: Assembly Members Chan, Chu, Hancock, Koretz,
Levine, and Vargas)
(Coauthors: Senators Escutia, Kehoe, Kuehl, Ortiz, Soto, and
Torlakson)

February 22, 2005

An act to add Division 12.8 (commencing with Section 19000) to the Public Resources Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1612, as amended, Pavley. Cigarettes: litter.

Existing law, the Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the California Families and Children Act of 1998 (Proposition 10), and the Tobacco Tax and Health Protection Act of 1988.

This bill would enact the Cigarette Pollution and Litter Prevention Act of 2005 and would require a manufacturer on *or before* July 1, 2006, *and on or before July 1 annually thereafter*, to pay a *specified* fee to the State Board of Equalization for each package of cigarettes sold in the ~~State of California~~ *state* during the previous ~~6 months~~ *year*. The bill would require each manufacturer to ~~thereafter~~ pay the fee based upon the number of packages of cigarettes sold in the state during the previous ~~6 months~~ *year*. The bill would require the board to notify each manufacturer of the amount due.

~~The bill would require the fee to be in amount that is not greater than specified costs mitigated by the bill.~~

The bill would require the board to deposit the fees collected into the Cigarette Pollution and Litter Prevention Fund, which the bill would create in the State Treasury. The bill would authorize the revenues in the fund to be expended by the Department of Conservation and State Department of Health Services, upon appropriation by the Legislature, for specified purposes and programs, including to help offset state government, local government, and other public agency costs associated with the cleanup of ~~cigarette cigarette-related pollution and litter and to mitigate cigarette-related pollution~~, to develop and implement public education and outreach programs, to assist individuals to access and utilize smoking cessation services, ~~to develop and implement community interventions~~, to reimburse the board for its costs of administration and collection of the fee, and to provide for the costs of administering the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Division 12.8 (commencing with Section 19000) is added to the Public Resources Code, to read:

DIVISION 12.8. CIGARETTE POLLUTION AND LITTER
PREVENTION ACT OF 2005

CHAPTER 1. GENERAL PROVISIONS

19000. (a) This division shall be known, and may be cited as, *as* the Cigarette Pollution and Litter Prevention Act of 2005.

(b) The Legislature finds and declares all of the following:

(1) There are approximately four million smokers in California who annually consume an estimated 1.2 billion packs of cigarettes, or approximately ~~22~~ 24 billion cigarettes.

(2) Pollution and litter from these cigarettes and their remnants pose a significant and growing cost to taxpayers, public health, and the environment.

(3) The vast majority of cigarette remnants or “butts” are littered or landfilled. Cigarette butts are regularly identified as

1 the single most prevalent component of the state's litter stream.
2 Cigarette butts have always been the most common item
3 collected during the state's annual coastal cleanup. In 2003, the
4 more than 300,000 cigarette butts collected by volunteers during
5 the one-day cleanup accounted for nearly 40 percent of total litter
6 collected.

7 (4) The reduction and cleanup of cigarette pollution and litter
8 ~~is are~~ resulting in significant new costs for public agencies and
9 taxpayers. Public agencies in California are already spending in
10 excess of \$100 million annually on litter cleanup. Cigarette litter
11 is a significant contributor to storm drain trash in California. The
12 mandates of the United States Environmental Protection Agency
13 for reducing the Total Maximum Daily Load (TMDL) of litter to
14 "zero" in specified watersheds ~~is are~~ expected to cost public
15 agencies and ultimately taxpayers, ~~more than _____ billion dollars~~
16 ~~(\$_____)~~ *and ultimately taxpayers, in southern California alone,*
17 *more than one billion seven hundred thousand dollars*
18 *(\$1,700,000,000) over the next decade.*

19 (5) Discarded cigarettes pose a significant threat to public
20 health and safety. Fires caused by discarded cigarettes claim the
21 lives of about 1,000 people every year, injuring more than 3,000,
22 and resulting in hundreds of millions of dollars in property
23 damage and fire suppression costs.

24 (6) Cigarette litter poses a threat to wildlife. Cigarette filters
25 have been found in the stomachs of fish, birds, whales, and other
26 marine creatures who mistake them for food. Composed of
27 cellulose acetate, a form of plastic, cigarette butts can persist in
28 the environment as long as other forms of plastic. Chemicals can
29 leach from cigarette butts within one hour of contact with water.
30 The chemicals that leach from cigarette butts are toxic to marine
31 and terrestrial life at concentrations as low as one cigarette butt
32 per 10 gallons and this toxicity persists for at least seven days.

33 (7) Greater public education is needed to correct the
34 misimpression that discarding cigarette butts at curbside is not
35 litter or a significant cause of pollution.

36 (8) The state and local governments spend hundreds of
37 millions of dollars each year to treat Californians who suffer
38 from illnesses and disease caused by the use of tobacco products
39 such as cigarettes and smokeless tobacco.

(9) The economic burden of smoking in California totals fifteen billion eight hundred million dollars (\$15,800,000,000) per year, costs equal to four hundred seventy-five dollars (\$475) for every Californian and more than three thousand three hundred dollars (\$3,300) per smoker.

(10) Manufacturers of tobacco products should be held financially liable for all of the adverse public health and environmental effects of their products, including tobacco addiction and cigarette-related pollution.

(11) Annually, more than 60 percent of smokers attempt to quit smoking, but tobacco cessation services are inadequate for providing an opportunity for smokers to quit.

(12) The fee imposed pursuant to this division will offset the costs of existing and needed programs to prevent and mitigate the environmental public health, and other publicly financed impacts discarded cigarettes and their remnants.

(c) The Legislature finds and declares that the imposition of the fee pursuant to Section 19003 would not result in the imposition of a tax within the meaning of Article XIII A of the California Constitution, because the amount and nature of the fee has a fair and reasonable relationship to the environmental, public health, and societal burdens imposed by the consumption, disposal, and littering of cigarette material, and there is sufficient nexus between the fees imposed and the use of those fees to support the collection and reduction of cigarette litter.

CHAPTER 2. DEFINITIONS

19002. Unless otherwise expressly stated, whenever used in this chapter, the following terms shall have the meanings set forth below:

(a) “Board” means the State Board of Equalization.

(b) “Fund” means the Cigarette Pollution and Litter Prevention Fund established pursuant to Section 19003.

~~(c) “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where the roll has a wrapper that is wholly or in~~

1 ~~the greater part made of tobacco and the roll weighs over three~~
2 ~~pounds per thousand.~~

3 *(c) "Cigarette" has the same meaning as defined in Section*
4 *30003 of the Revenue and Taxation Code.*

5 *(d) "Cigarette package" means an individual packet, box, or*
6 *other container in which retail sales of cigarettes are normally*
7 *made or intended to be made. "Package" does not include a*
8 *container that is a carton, case, bale or box and, or other box that*
9 *contains smaller packaging units of cigarettes.*

10 *(e) "Manufacturer" means a person who manufactures a*
11 *cigarette.*

12
13 CHAPTER 3. ESTABLISHMENT OF THE CIGARETTE POLLUTION
14 AND LITTER PREVENTION FEE
15

16 ~~19003. (a) A manufacturer shall annually pay a cigarette~~
17 ~~pollution and litter prevention fee to the board in accordance with~~
18 ~~this section. The fee paid by the manufacturer shall be in amount~~
19 ~~that is not greater than the costs of the environmental, public~~
20 ~~health, and societal burdens that are mitigated pursuant to this~~
21 ~~division.~~

22 ~~(b) On July 1, 2006, each manufacturer shall pay a cigarette~~
23 ~~pollution and litter prevention fee for each package of cigarettes~~
24 ~~sold in the State of California during the previous six months, as~~
25 ~~reported to the board. Each six months thereafter, each~~
26 ~~manufacturer shall pay the fee to the board based upon the~~
27 ~~number of packages of cigarettes sold in the State of California~~
28 ~~during the previous six months, as reported to the board. The~~
29 ~~board shall notify each manufacturer of the amount due under~~
30 ~~this section.~~

31
32 CHAPTER 4. FINANCIAL PROVISIONS
33

34 ~~19004. (a) The board shall deposit all fees collected under~~
35 ~~this chapter into the Cigarette Pollution and Litter Prevention~~
36 ~~Fund, which is hereby created in the State Treasury.~~

37 ~~(b) The revenues in the fund may be expended by the~~
38 ~~Department of Conservation and the State Department of Health~~
39 ~~Services, upon appropriation by the Legislature, for all of the~~
40 ~~following purposes and programs:~~

~~(1) To help offset state government, local government, and other public agency costs associated with the cleanup of cigarette-related litter and to mitigate cigarette-related pollution.~~

~~(2) To develop and implement public education and outreach programs by public agencies and nonprofit organizations aimed at educating the public on the public health and environmental problems resulting from the improper discard of cigarette remnants.~~

~~(3) To develop and implement programs by public agencies and nonprofit organizations aimed at reducing the source of cigarette-related litter and pollution and the resulting public cost.~~

~~(4) To assist individuals to access and utilize smoking cessation services.~~

~~(5) To develop and implement public education, media advertising, and outreach programs aimed at preventing individuals from starting to smoke.~~

~~(6) To develop and implement effective community interventions aimed at reducing the harm caused by cigarettes.~~

~~(7) To reimburse the board for its costs of administration and collection of the fee imposed pursuant to this division.~~

~~(8) To provide for the costs of administering this division.~~

19003. (a) A manufacturer of cigarettes shall pay a cigarette pollution and litter prevention fee of ten cents (\$0.10) to the board for every pack of cigarettes distributed for sale to consumers in this state.

(b) On or before July 1, 2006, and on or before July 1 annually thereafter, a manufacturer shall pay the cigarette pollution and litter prevention fee specified in subdivision (a) for each package of cigarettes distributed for sale to consumers in the state during the previous calendar year, as reported to the board. The board shall notify each manufacturer of the amount due under this section.

(c) For purposes of this division, the board shall collect the fees pursuant to the fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code).

(d) The board may pay refunds to manufacturers for any overpayments of the fee from the fund.

CHAPTER 4. FINANCIAL PROVISIONS

19004. (a) The board shall deposit all fees collected under this division into the Cigarette Pollution and Litter Prevention Fund, which is hereby created in the State Treasury.

(b) The revenues in the fund may be expended by the Department of Conservation and the State Department of Health Services, upon appropriation by the Legislature, for all of the following purposes and programs:

(1) Not less than 50 percent of the revenues annually deposited in the fund shall be expended by the Department of Conservation to provide funds to cities, counties, and other public agencies to offset the costs of programs for the prevention and cleanup of cigarette-related pollution and litter.

(2) Not less than 25 percent of the revenues annually deposited in the fund shall be expended by the State Department of Health Services, in consultation with the Department of Conservation and the State Water Resources Control Board, to develop and implement public education programs by public agencies and nonprofit organizations aimed at reducing the source of cigarette-related litter and pollution and the resulting public cost.

(3) Not less than 5 percent of the revenues annually deposited in the fund shall be expended by the State Department of Health Services for programs to assist individuals to access and utilize smoking cessation services.

(4) Not less than 5 percent of the revenues annually deposited in the fund shall be expended to develop and implement public education, media advertising, and outreach programs aimed at preventing individuals from starting to smoke.

(5) Not less than 5 percent of the revenues annually deposited in the fund shall be expended to develop and implement effective community interventions aimed at reducing the harm caused by cigarettes.

(6) Not more than 2 percent of the revenues annually deposited in the fund shall be expended by the board for the cost of collecting this fee.

(7) Not more than 2.5 percent of the revenues annually deposited in the fund shall be expended by the Department of Conservation to administer this division.

1 *(8) Not more than 2.5 percent of the revenues annually*
 2 *deposited in the fund shall be expended by the State Department*
 3 *of Health Services to administer this division.*

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6 **CORRECTIONS:**

7 **Text — Pages 6 and 7.**

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